ECONOMICS AND GOVERNANCE COMMITTEE

Members present:

Mr LP Power MP (Chair)
Mr ST O'Connor MP
Mr DG Purdie MP
Ms KE Richards MP
Mr RA Stevens MP
Mr DJ Brown MP
Ms A Leahy MP

Staff present:

Ms L Manderson (Acting Committee Secretary)
Mr J Gilchrist (Assistant Committee Secretary)

PUBLIC HEARING—EXAMINATION OF LOCAL GOVERNMENT ELECTORAL (IMPLEMENTING STAGE 2 OF BELCARRA) AND OTHER LEGISLATION AMENDMENT BILL 2019; ELECTORAL AND OTHER LEGISLATION AMENDMENT BILL 2019

TRANSCRIPT OF PROCEEDINGS

MONDAY, 27 MAY 2019

Brisbane

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The committee met at 1.08 pm.

CHAIR: Good afternoon. I declare open this public hearing for the Economics and Governance Committee's examination of the Local Government Electoral (Implementing Stage 2 of Belcarra) and Other Legislation Amendment Bill 2019, or the stage 2 of Belcarra bill, and the Electoral and Other Legislation Amendment Bill 2019. I would like to acknowledge the traditional owners of the land on which we meet, the Jagera people in Brisbane and the traditional owners of North Queensland, and pay my respects to elders past, present and emerging.

My name is Linus Power, the member for Logan and chair of the committee. With me here today are: Ray Stevens MP, the member for Mermaid Beach and the deputy chair; Sam O'Connor MP, the member for Bonney; Kim Richards MP, the member for Redlands; Dan Purdie MP, the member for Ninderry; and Don Brown MP, the member for Capalaba, who is participating as substitute member for Nikki Boyd MP, the member for Pine Rivers. Ann Leahy MP, the member for Warrego, is participating with leave of the committee.

The purpose of today's hearing is to assist the committee with its examination of the stage 2 of Belcarra bill and the Electoral and Other Legislation Amendment Bill, which were respectively introduced on 1 May 2019 by the Hon. Stirling Hinchliffe MP, Minister for Local Government, Minister for Racing and Minister for Multicultural Affairs, and the Hon. Yvette D'Ath MP, Attorney-General and Minister for Justice. The committee is required to report to the parliament on both bills by 21 June 2019.

This hearing is a proceeding of the Queensland parliament and is subject to the standing rules and orders of the parliament. It is being recorded and broadcast live on the parliament's website. Media may be present and will be subject to my direction. The media rules are available from committee staff if required. All those present today should note that it is possible you might be filmed or photographed during the proceedings and images may also appear on the parliament's website or social media pages. I ask everyone present to ensure that their mobile phones are switched off or turned to silent.

The first part of the proceedings today will focus on the stage 2 of Belcarra bill. Later this afternoon we will hear from witnesses who have made a joint submissions on the bills, as part of a combined hearing session.

Some of the amendments that are proposed have come about in response to certain matters, many of which have resulted in criminal charges which are now pending in the courts. The Legislative Assembly and its committees recognise that matters awaiting or under adjudication in criminal courts should not be referred to from the moment a charge is made against a person until the matter is resolved in the courts. I therefore ask all witnesses, and those members asking questions, to kindly ensure that they do not refer to matters before a criminal court in their evidence. This rule does not generally apply to civil actions before a court.

BRENNAN, Mr Terry, Chief Executive Officer, Burdekin Shire Council, North Queensland Regional Organisation of Councils (via videoconference)

FINLAYSON, Mr Graeme, Chief Legal Officer, Townsville City Council, North Queensland Regional Organisation of Councils (via videoconference)

HILL, Ms Jenny, Mayor, Townsville City Council, North Queensland Regional Organisation of Councils (via videoconference)

McLAUGHLIN, Ms Lyn, Chair, North Queensland Regional Organisation of Councils; and Mayor, Burdekin Shire Council (via videoconference)

SCHMIDT, Ms Liz, Mayor, Charters Towers Regional Council, North Queensland Regional Organisation of Councils (via videoconference)

CHAIR: I now welcome our first witnesses, who join us via videoconference from Townsville. I wish to thank officers from the North Queensland Regional Organisation of Councils for helping to make this videolink possible. Appearing today we have Councillor Lyn McLaughlin, Chair, North Queensland Regional Organisation of Councils and Mayor of Burdekin Shire Council; Councillor Liz Schmidt, Mayor of Charters Towers Regional Council; and Councillor Jenny Hill, Mayor of Townsville City Council.

Good afternoon to you all. My understanding, Lyn, is that you would like to make an opening statement on behalf of the North Queensland Regional Organisation of Councils. If anyone else would like to make a statement, you may also do so. After that, committee members will have some questions for you.

Mayor McLaughlin: I note that we also have at the table Mr Terry Brennan, Chief Executive Officer from Burdekin Shire Council; Mr Graeme Finlayson, Chief Legal Officer from Townsville City Council; and Laura Vidmar, secretariat of the North Queensland ROC.

Firstly, thank you for arranging this opportunity. We are sorry that you were unable to come to Townsville, but we are very happy for this opportunity. I know that you have received our submission. I wanted to give you a little bit of background. Our five councils work collaboratively all the time, covering a population of about 240,000 people and over an area of approximately 80,000 square kilometres. We contribute about $16 billion annually to the Queensland economy. That covers off on Palm Island Aboriginal Shire Council, Townsville City Council, Hinchinbrook Shire Council, Charters Towers Regional Council and Burdekin Shire Council. We have included 14 recommendations for your consideration. We will wait for some questions on those, or do you want me to address them? I will ask Councillor Hill and Councillor Schmidt if they want to make some opening remarks.

Mayor Hill: Thank you for taking the time to meet with us. There is a real issue for me in local government based around the changes that are proposed. We have read a number of the submissions. Apart from our submission and the LGAQ submission, we are also very keen to explore the Queensland Law Society's submission which also highlighted a number of irregularities based around the proposed legislation. The real concern for many of us is the ability to implement the changes that are proposed, the lack of education for councillors to be able to understand their requirements and support for Indigenous councils, because many of those councils will have immense difficulty in being able to meet the requirements set by the changes proposed in the legislation. I can only hope that common sense will prevail. The Premier has always given a commitment that any changes to legislation would mirror those that would be in the state government. Reading all the submissions, one would have to ask if that is the case with the proposed changes. Thank you.

Mayor Schmidt: I am happy to just go with what we have put forward.

Mayor McLaughlin: Chair, did you want to ask some questions or do you want us to go through and address in particular some of our submissions?

CHAIR: If there are specific things that you want to speak to us directly about or if you would prefer to be asked questions about the submissions you have already given—either way. I do know that there are some members who would like to ask you some questions.

Mayor McLaughlin: Can I make a couple more comments in an opening statement around the need for training and the time frame in which proposed changes are looking at being implemented. That is of grave concern. In the proposed legislation there is also lack of clarity around different phrases and different terms which I think will cause a lot of anguish to people considering running for local government. I think some of the intention of the legislation is way too onerous on elected members who may not have the resources and training to deal with the implementation of the new legislation.

Mr STEVENS: The NQROC submission does not support compulsory preferential voting. You state that compulsory allocation of preferences will require voters to indicate their support for candidates they may not support, or in many cases they have probably never heard of, and will increase the possibility of informal votes. Could you elaborate on those concerns as far as North Queensland is concerned?

Mayor McLaughlin: If the committee is happy, I will start and the other two mayors will then have an opportunity to add to what I have said. At the beginning of this, the system we have in place is working. The percentage of informal votes has not risen over the time of local government elections. We honestly believe that people may choose not to do preferential. When I first ran for council there were 26 candidates. Can everyone count to 26? Are people firstly going to bother to do it, which could cause a high informal vote?

CHAIR: There was a single ward that had 26 candidates in the one ward?

Mayor McLaughlin: No, this is if it is compulsory. That is undivided councils.

CHAIR: There is no suggestion that it would be compulsory preferential across the entire undivided council. We are referring to wards.

Mayor McLaughlin: There were some discussions about that coming in following the single ward ones.

CHAIR: We need to reference what is in the bill.

Mayor Hill: May I then, Chair, talk about what it means for local government divisions in Townsville.

CHAIR: This is in reference to where there are divided councils and single wards such as Townsville.

Mayor Hill: I think the federal election a week ago would indicate to many of you some of the problems with compulsory preferential voting. We noted that there was a high percentage of people who—I actually scrutineered at one of the polling booths to ensure that what I had heard is correct—wrote on their ballot forms, 'I wouldn't vote for any of them,' or, 'I wouldn't vote for more than one of them,' or, 'Why can't I just vote for one?' It was an interesting thing to see. I think the seat of Herbert had about a four per cent informal vote, which is extremely high.

The other thing with compulsory preferential voting is the lack of transparency. In the previous federal election we saw the way parties would do deals in terms of where their preference vote would go. While this is legal, there is still no transparency on what the deal could mean and there is no compulsion on anyone to ensure that any arrangements are open and transparent to the voter. It allows for groups to do deals to ensure that certain people may get elected. In terms of optional preferential voting, you might have a person who receives 47 per cent of the vote but, because someone might receive 35 and another person received 15, you will see the person who received 35, because they have done a preference deal, suddenly become the winning candidate. Many people in the electorate do not really consider that democracy.

CHAIR: How many wards had only two candidates running? How many other people who were not part of the teams in Townsville?

Mayor Hill: There were a number of divisions that had four. Some even had five people running in them. It was not all divisions, but there were a few. I can go back and have a look for you, Chair, if you would like, but I am sure the ECQ can provide you with that data.

CHAIR: Where there are only two candidates, which is the majority of Townsville wards, there is actually no change. They simply put '1' and if they do not choose to put the last number in they put '2'. It is still a valid vote

Mayor Hill: It may still be a valid vote, but what about those wards where there were three, four and five running where councillors may have relied on a preference deal?

CHAIR: Which ward are we talking about?

Mayor Hill: We can provide you with that information. There were a number of wards. It also occurred in the previous election of 2012.

CHAIR: Did someone else want to comment on that?

Mayor Schmidt: My issue is around the compulsory preferential voting for mayors. I have discussed this with some in my community and in a smaller community there is a divide. Ours is a relatively large one. Some have only 300 to 400 voters. There is a very big divide between some folk and other folk, so they would vote for someone as mayor but would never want to put somebody else up. If there are four people standing for mayor, there may be nobody else on that list they would trust to be the mayor. The difficulty is having to vote for somebody that you would never want to be your mayor anyway, preferential or otherwise. My community is only 7,000 voters but, talking to the people around the possibility they will get a mayor they certainly do not want, that is a difficulty for that compulsory preferential system.

CHAIR: If their first preference does not get up and they do not wish for anyone else, they are going to get a mayor they did not want anyway.

Mayor Schmidt: I understand that. I just think the whole idea that they have to do something they do not feel comfortable with is difficult for most people. If there are four mayoral candidates and three of them want to preference against somebody else, it makes it very difficult for the community to get the person they really want to be their leader.

Mayor McLaughlin: Just to add to the conversation, this legislation proposed was not recommended in either Belcarra or the Soorley review. We are interested to see where it comes from. In small regional councils there is no political alignment in local government elections. I think this proposed change could lead to introducing that into small regional councils. We know that Townsville, Brisbane and the larger cities—whichever cities are involved—may run political parties, but the majority of councils—over 70 councils, I would say—do not run political parties. This lends itself to that. That is another reason we are opposing it. The question has to be raised as to where it comes from when it was not included in Belcarra or the Soorley review.

CHAIR: When the minister introduced the bill, it was mentioned that it was not mentioned there but they wanted to introduce it as part of this package because the other levels of government have the same rules. Why do you think it would introduce parties into local government? Obviously there are lots of other states that have compulsory preferential voting at local government levels and it does not necessarily introduce parties into local government. Why would that make a change? I do not understand the logic there.

Mayor McLaughlin: I follow on from what Mayor Hill and Mayor Schmidt said about people getting together to form alliances to oust a person. The political organisations in Queensland possibly have more connections and more ability to run a team. That then makes the opportunity much better to align with party A and B: 'If we both put a team up, we will get people in.' There is none of that now, and the majority of councils that I am aware of run as individuals.

Mr BROWN: I want to explore this concept about parties. Optional preferential voting still allows for candidates to have how-to-vote cards and do deals. Do you agree?

Mayor McLaughlin: Yes.

Mr BROWN: In an article by Antony Green it was interesting to note that less than half of voters now follow how-to-vote cards. Are we jumping at shadows in regard to preference deals when, in fact, the majority of Australians, when they come to voting at elections, do not follow how-to-vote cards and therefore are we getting scared of potential deals when, in fact, less than half of the voting population follow them?

Mayor Hill: Where did Antony Green even come up with that? Is it an opinion or is it a fact?

Mr BROWN: He has published a story today—

Mayor Hill: Facts require data.

CHAIR: Mayor Hill, let us hear Mr Brown.

Mr BROWN: The article is published today on the ABC website. He has done a comparison in regard to a lot of state bodies. You can read the article yourself and decide whether you think it is a valid analysis or not.

CHAIR: The assertion has been put that less and less Australians are following any kind of guidance on how to vote.

Mayor Hill: I scrutineered 6½ thousand votes and I have to tell you that at least probably 80 per cent followed a how-to-vote card. I do not know where Antony Green came up with this, because many people would text message how-to-vote cards on their phone—particularly younger people—which would account for why they did not take how-to-vote cards when they went through the polling booth. I find it curious how Antony Green would say that when I have never seen him scrutineer in a booth in my lifetime.

CHAIR: You reject that assertion. Does anyone else have any comments?

Mayor Schmidt: As an example, at the last election for mayor there were four candidate: myself and three others. There was the mayor, the deputy mayor, myself and a real estate agent. There was a how-to-vote card. The only person who put a preference on there was the real estate agent. He clearly was never going to be and never wanted to be the mayor. His preference went to the previous mayor, quite deliberately and quite openly, to try to make sure that the previous mayor was the mayor. It was quite open.

Mr BROWN: That goes to my point that it can happen under this system right now.

Mayor Hill: I think what Mayor Schmidt is trying to say is that at the moment people do have an option. If you present compulsory preferential voting, there is no option.

Mayor Schmidt: That is exactly right.

Ms LEAHY: Lyn, you asked a question earlier in relation to where some of this compulsory preferential voting proposal may have come from. There was a report done by the ALP in relation to a review into the Brisbane City Council—

CHAIR: Member for Warrego, are you asking a question?

Ms LEAHY: Yes, I am, in relation to compulsory preferential voting, if you will let me get to the end of the question.

CHAIR: This is to hear evidence from our witnesses.

Ms LEAHY: I am getting to the question.

CHAIR: I would like you to put a question, please.

Ms LEAHY: In relation to compulsory preferential voting, particularly for those smaller councils, given that that review was into the Brisbane City Council, do you think that there is significant overreach here for smaller councils and that good people in communities may be deterred from standing for council because of the compulsory preferential voting system that is being brought in?

Mayor McLaughlin: I think perhaps it could be one issue that could put people off running, but I think there are other provisions proposed in the legislation around conflicts and declarations about the presumption of guilt rather than innocence. Those issues are of great concern as well as compulsory preferential voting. People weigh up how much of their lives they are going to give up to serve the community.

My experience in small regional councils is that people offer themselves for election because they believe they can have a positive influence and because they can give something back to the community. In general, there are no aspirations necessarily to run for other local governments. When you think that there are 77 local governments, I do not know too many people who have commenced a career and then gone on to have further political aspirations. My understanding is that people do it because they have a love of their community, they want to give something back and they have something to offer to make it a better place.

Mayor Schmidt: I think in some of those areas in the west where there are 300 people who vote there is the potential for the community bullying certain folk to either stand or not to stand. There is that potential in those smaller areas and in some of the Indigenous councils—and this has been raised with us by Councillor Lacey. Where there is a community divide, there is potential for one candidate to be unnecessarily bullied or influenced by the community to stand or not to stand, if that answers your question.

Ms LEAHY: Jenny, do you have any comments?

Mayor Hill: This whole debate is more than just about compulsory preferential voting. It is about the fact that some of this legislation reverses the onus of proof for criminal proceedings. It goes to the heart of local government because many people do give up their time to serve. I have met particularly some of the councillors out west and in Indigenous councils who have put up a lot with their community where there are small pockets who will raise claims and do things. Much of this legislation actually will bully these people out of council. I understand the reason you want to try to strike a balance after what has happened in other local governments, but I think some of this is really taking a sledgehammer to crack a walnut. It really concerns me.

CHAIR: Is the suggestion that these changes are important for larger areas but somehow the north should be held to a lesser standard when it comes to accountability of local government?

Mayor McLaughlin: We all want to answer this one. That is a bad comment about the north. I do not think it is about where you live or who you are or the size of your council. I think it needs to be recognised that the majority of councillors in Queensland are not full-time councillors. That is very, very important. The majority of councillors run a business to survive and to support their families. With some of the onerous requirements, they are going to have to either employ someone or give up some of their own time to try to administer all of the paperwork and responsibility around being a councillor.

I make it very clear that at no time has this group ever disagreed with the principles of fairness, openness and no bias. They are not in question; it is not that. It is just that we appear to be legislating for the worst performers when the best performers are nowhere near that. Everyone gets pulled down to whoever the lowest performers are, instead of having them rise to the people who do the right thing—declare everything and never have any conflicts of interest. We seem to always go to the least performers to make legislation. We definitely do not want North Queensland to be treated any differently. We do not want any part of Queensland to be treated differently. We are one state and one sector of local government that needs to be treated the same.

CHAIR: That is great.

Mayor McLaughlin: I will hand over to Mayor Hill and Mayor Schmidt, because everyone wants to answer that question.

CHAIR: I am very glad, because I think those high standards are very important for North Queensland. That is the point I was making.

Mayor Schmidt: I have lived 64 years of my life making sure that I have a reputation that I can stand on. My community voted for me because of the reputation that I have. A lot of this legislation presumes that I am guilty before I do anything. I am very conscious every day of making sure that I do not do something as simple as—I know this is ridiculous—getting a cup of coffee from a developer. I stand on my reputation. I do not want to be tarred with the same brush as the very few who have done the wrong thing. Assuming that we are all going to do that is what bothers me most. Most of the mayors that I know—all of the mayors that I know and interact with daily—value highly their own reputation. I do not want to see that watered down.

CHAIR: Mayor Hill, do you want to comment?

Mayor Hill: Local government does not have the protection of political parties. We see what happens in Brisbane City Council. It is a fight between two groups, quite often with political parties being able to act as cover for donations and things like that. We do not have that luxury anymore in local government. This legislation goes to the heart of how we can do business as we normally do. We have to talk to developers. We have to talk to our community. At the moment there is one section of the bill that was raised by the Law Society which was very important. The term 'public interest' is not defined. In the interest of transparency and providing certainty, we need to understand what the public interest test is for local government. Is it going to be different for us than it is for state and federal parliament?

All we ask is to be treated the same, not differently. We do not want to be held to a different standard. If you want us to rise to your standard, treat us the same way. Do not set these sorts of things that are actually an impediment for us to be able to do our job properly and fairly. I would argue that the current councils are facing court under the old legislation, and it seemed to serve government well. I am concerned, particularly after reading the Queensland Law Society's submission in conjunction with our submission, that we are all seeing the same thing. There is no 'reasonably'. There is no definition for 'belief'. 'Belief' should be defined as 'on the evidence before the minister, on the balance of probabilities'. There are powers being exercised in this legislation that will allow people to make allegations against us without necessarily a modicum of proof that will destroy our reputations and destroy us personally. It is wrong.

Mr STEVENS: Thank you, mayors and gentlemen. I am a former mayor of Albert shire and a former mayor of the Gold Coast City council. I do understand your concerns greatly. The question, which is pretty simple, in my view, is that, despite the issues that have been created in a couple of south-east corner councils—would you say that this legislation we have before the House is what you would call overreach in terms of addressing some problems that are terrible but that existed—there were a couple of bad apples in the barrel, if you like—in terms of trying to fix a wheel that ain't broke?

Mayor McLaughlin: I think it is clear, if you read our submission, that it is all about definitions. There is no clarity about what the bill may cover and may do. It probably goes back to what I said before: we are legislating for the worst performer. It is definitely overreach. There is not a doubt. There is not a local government in Queensland that did not agree with that at our last special meeting. If you are always going to go to the lowest denominator, how do we raise the standard within the sector? We need everyone to step up. If they are not performing, they should not be eligible for government grants. They should not be eligible for anything until they improve their performance. We should not be looking for the worst performers. We should be modelling on the best performers.

Mayor Schmidt: I am really keen to say two things: yes, do not fix the unbroken wheel and do not tar us all with the same brush.

Mayor Hill: The reason this committee has been formed is to review the legislation that is currently before the House. We are here to show you that sometimes the bureaucrats get it wrong. In fact, I might ask my legal officer to point out a couple of areas where there are some gaping holes.

Mr Finlayson: There are a number of key areas where the bill leaves gaps and uncertainty. This was not raised in just our submission. The LGAQ submission talks about the definition of 'other person' and being unable to have basic conversations with developers to even understand the proposals. You might have some form of conflict down the track through to a whole bunch of unintended consequences in terms of not being able to enter into emergency contracts during storm season to possibly buy repair services. There is overreach in the legislation.

CHAIR: You were breaking up. Can you repeat what you said about conversations with developers?

Mr Finlayson: As is clear from the LGAQ and Queensland Law Society submissions, it is very difficult to even have basic conversations with constituents for fear of there being a conflict about a matter that they just may wish to inform you about. Any discussion with any other person that could lead to a conflict could potentially place a councillor in jeopardy.

Additionally, there are some other unintended consequences that the submission from the joint councils identifies, such as that councils during caretaker period may not be able to exercise emergency powers to buy needed contracts for services during storm season to respond to cyclone or repairs or those sorts of things. There are further unintended consequences that trying to exercise powers under the Disaster Management Act or the Water Supply (Safety and Reliability) Act may cause chairs of LDMG to have to have a lawyer present to work out whether they have a conflict or not in terms of exercising their rights. There are a lot of unintended consequences here.

The other issue is this notion of expanding the definition of 'related person'. What that will do is say that, as some of the mayors have pointed out, if you own your own business and council is talking about a policy for procurement, it could lead to a conflict of interest because you have an interest greater than other members of the council. There are a lot of things like that. There are definitions that go too far and leave things unclear. For example, the bill says that if you receive a donation during the relevant term it may not be declarable if it is below $500. That does not answer the question, though, if you have received some over three or four terms. What does that mean if you are a longstanding councillor? Where do you stand? There are a lot of submissions like that.

Similarly, in terms of representing community interests, as we say in the submission in recommendation 2, sponsored hospitality benefits seem to suggest that, if you get money from the Commonwealth government for travel or a trade mission and attend an overseas delegation, that appears to potentially trigger a conflict if it is more than $2,000. Equally, if there is a sponsorship or value in kind provided by a sister city, a government such as Singapore, Malaysia or Indonesia, or a trade partner such as Port Moresby, that could potentially create a conflict of interest as well for receiving some value in kind from them.

The other component of all of this is that it is left unclear and it is assumed that all the councils know where these gifts are coming from. If the state organises a trade mission, for example, and they have done arrangements with some local companies for some travel or accommodation to be supported, are the councils to assume that that gift is coming from a local company as opposed to the state? These are the sorts of unintended consequences that this bill opens up, as well as those others that we have raised.

Mayor Schmidt: We were talking about conflict. When you have 300 voters in a smaller community, some of those want to stand for a position and cannot because they are a developer. They have to leave the room every time there is a discussion around a possible conflict of interest. You have four people who want to stand in a council seat and those four people have to leave the room because they are potentially conflicted as developers. That makes it difficult for those smaller communities to get the right kind of councillors.

CHAIR: Councillor Schmidt, the conflicts of interest rules exist under the current legislation. We are not suggesting to get rid of that.

Mayor Schmidt: No, it is more to do with the fact that some of those people will feel that they are precluded from becoming a councillor. If there are four people in the room who are conflicted and they are the mayor and three councillors, what does that do then to fairness and decision-making? I am talking about places where there are 300 or 100 people in the town. It is about reducing that pool of potential really good and qualified councillors, simply because they are developers or potential developers.

Ms RICHARDS: I want to go back to your legal counsel. You made the point that you might have somebody travelling to Port Moresby or Singapore. We are talking about gifts to councillors versus undertaking the business of a council in looking at its trade partners and relationships. That is doing the business of the council. It is not necessarily a councillor taking a gift. I am a little bit confused by your interpretation of that.

Mr Finlayson: The definition of 'sponsored hospitality' covers travel and accommodation. It is not uncommon for sister cities or trading partners to provide travel, such as a free bus to allow delegates to travel around an area or do a site visit.

Ms RICHARDS: That would be council business, would it not? It is not a gift to a councillor. It is not a freebie in a hotel or a freebie bus trip as a gift to the councillor.

Mayor Hill: No, we are on council business.

Ms RICHARDS: You are on council business.

Mr Finlayson: We are on council business. There is no exclusion for that. There used to be an exclusion for gifts received except in an official capacity. I absolutely fully agree that, if you are getting free bottles of Cristal or buckets of gold otherwise on official business, that is a problem. That is certainly not what the legislation now does. The legislation assumes that if you get any form of travel or accommodation support above $2,000 and it is not from the state government or the local government itself that creates a conflict.

CHAIR: The time for questions is now finished. Is there anything really briefly that anyone want to conclude on?

Mayor McLaughlin: I would like to go to our submission No. 11 on the powers of the mayor. The group is supportive of the budget being done as a whole, which was in the previous legislation. However, I bring your attention to the concerns about the mayor being able to talk with directors and also the appointment of those senior staff. We support the way operations are going now and not the proposed changes where it would only be the CEO. That is just to make sure that you have seen No. 11.

Mayor Hill: I have a comment to make about recommendation 4. The definition of 'related party' is unclear in relation to what constitutes a close personal relationship. The bill does not contain any guidance on what constitutes a close personal relationship for the purpose of determining if a person is a related party of a councillor.

I can give you a personal experience on that. I have a family member whom I will never speak to again whose company occasionally does business with local councils around Australia. I do not know what his business is, yet without the definition of what is a close personal relationship, I have already been investigated on matters relating to him. I would not speak to him. I do not send him Christmas cards. I do not really know what he is up to, but persons have used the fact that he is related to me as a method of attempting to claim inappropriate behaviour.

CHAIR: Thank you very much. We might wind up the videoconference there. We thank you.

Mayor McLaughlin: I thank you for taking the time to meet with us and listening to our submission. Thank you for that opportunity.

CHAIR: You are very welcome. We look to do that as much as possible. There are no questions taken on notice. Thank you for appearing to assist the committee today.

HALLAM, Mr Greg, Chief Executive Officer, Local Government Association of Queensland

LEYLAND, Mr Mark, Principal Adviser, Governance, Local Government Association of Queensland

CHAIR: Good afternoon. I invite you to make a short opening statement, after which committee members may have some questions for you.

Mr Hallam: Thank you very much, Mr Chairman, and members of the committee. I will keep my remarks purposefully short so that it allows time for questioning. As a matter of principle, we oppose the bill because it includes a range of changes that were not recommended by the CCC in the Belcarra report and nor were they recommended in the Soorley review of the 2016 local government elections. As my colleagues the three mayors from North Queensland noted a moment ago, at a special meeting of the LGAQ membership held in Brisbane on 2 April—only the second of those in 40 years—the councillors of Queensland voted overwhelmingly to oppose several of these proposed changes; namely, compulsory preferential voting, removing the power of the mayor to direct senior executives and removing the power of the mayor in conjunction with the deputy mayor or a councillor who is a committee chair to participate in the decision to appoint senior executive employees.

I will now go to broader matters. It is really important that this committee, and indeed the parliament, does not labour under misnomers. There are two fundamental misnomers. The first is that there is a perception of councils being on the nose. That is not true. I hand up to the committee research that has been completed only in the last few weeks. Indeed, Colmar Brunton, which is a global polling firm, was in the field right through to the end of April. I am happy to say that over the past 12 months—we have run similar surveys and this is a sample of 1,000 people, so those of you who are statistically minded know that the standard MOE is plus or minus 2½ per cent—

CHAIR: Mr Hallam, there is a bit of a division on recent polling events.

Mr Hallam: True.

Mr STEVENS: We are all for it.

Mr Hallam: In that time, local government satisfaction has increased by five per cent, so to say that councils are on the nose is utterly wrong. I would comment that in South-East Queensland it fell by two per cent, but, as I just indicated, that is within the two per cent margin of error. In provincial and rural Queensland it has increased by 13 per cent in the past 12 months, which is during the time of the issues that have arisen in a number of South-East Queensland councils. I hand up for the committee's benefit these results. As I say, they have not yet been made public. Today is their first outing. We will be making that submission in full later in the week, when those results are out.

CHAIR: Mr Hallam, if you hand them to the secretariat I will then seek the leave of the committee to have them tabled.

Mr Hallam: It is a misnomer to say that councils are on the nose. It is not factually true.

The second issue my colleagues from North Queensland spoke to is that it is very important that we make the distinction between state and local government. We are not a mirror image of you folk. We are not a parliament. Indeed, the great majority of the people elected to those roles have other things to do. They have careers and whatever it might be. They have businesses or they have properties that they run. They do not have support staff. They are in a very different situation to you folk. I am not suggesting that you have all the people you need to help you to do your job, but they have literally none other than the CEO. Therefore, when you make legislation, it is very important to have regard to the capability of that legislation being enacted and the ability of people who are busy in other parts of their lives but have a major commitment to local government to understand incredibly complex matters without personal support.

CHAIR: I ask the committee if we are happy for that to be tabled. We will table this document.

Mr Hallam: Thank you, Mr Chairman. I turn to a number of the matters that have been briefly talked about before. One is the timing of the legislation. We certainly have a view that, around the conflict matters, the implementation or the start date for those should be after the next council election. To try to bring in major fundamental changes in a rushed six-month period I think would be quite deleterious. We will end up with more problems than we have, simply because of the ability of this to be implemented.

We do support in principle the proposed conversion of what is presently defined as a material personal interest to a prescribed conflict of interest. Further, we support the draft bill's intent to clarify and better define a prescribed conflict of interest as opposed to the current definition of material personal interest. However, like the Law Society, we believe there are a number of ambiguities that require refinement. We have gone to those around declarable conflicts of interest. Similar to the Law Society, we have major concerns about the definitions. I will not go further on those, other than to say that section 150EE is extremely troubling. The reference to 'or other person' requires further explanation.

I do commend the Law Society. We are practical people. We have our own internal legal advice and that of King & Company Solicitors, our external advisers. I think the Law Society did an excellent job on the issues of jurisprudence. They very properly looked at other applications of the criminal law. It is an extraordinary thing to reverse the onus of proof. We need to be very up-front about that. It does not apply to you folk. You are not in that same situation where you have to prove your innocence. It is an extraordinary thing that you are asking. It does go to the comments of my colleagues earlier. What do we want: only 80-year-old monks or 80-year-old virgin spinsters eligible to run for local government?

Mr STEVENS: That is sexist, Mr Hallam.

Mr Hallam: I mean people living in cloisters. I think we have to be very careful. Again I go to the second misnomer that we are somehow similar to you folk. These are communities of 300 and 400 people. Everyone does business with everyone else. Everyone is involved with the gymkhana, the show society, the race club, the gun club. Whatever legislation you enact has to be capable of being operated.

We really concur with many things that have been said by the Law Society. As I say, we do like the shape it has taken in relation to the conversion to this idea of prescribed and other interests. I think that is a good start, but there are some gaping holes that others have pointed to, including Mr Finlayson from the Townsville City Council, the Law Society and ourselves. I might leave it at that, Mr Chairman, and take questions.

CHAIR: Your first proposition is that you oppose the bill because it has ideas that did not come directly from the two reports?

Mr Hallam: Correct.

CHAIR: Therefore, nothing should ever be put forward in legislation that did not come from those two reports?

Mr Hallam: No, but the government makes a great deal of this being the Belcarra legislation when it is anything but.

CHAIR: With respect, it is Belcarra and 'other legislation', right from the beginning. Clearly addressed in the minister's introductory speech was that other things were added to this because of the integrity and the ideas that have come forward.

Mr Hallam: I go to the question of compulsory preferential voting. It was said that it should be put off till 2024. That was a recommendation of Soorley. If we want to do that, let us quote all the reports. We have a commitment to the Belcarra principles. We have made that very public throughout the whole length of this process. We have problems when the legislation is self-serving, when it favours one political party over another in relation to compulsory preferential voting.

Mr STEVENS: Mr Hallam, your submission rejects the change in the existing process of councillors informing their colleagues that they may have a conflict of interest on a matter and then being able to discuss that with their colleagues in terms of voting, basically, on whether they do or they do not. It creates a Caesar-judging-Caesar scenario. If you can get a council block of like-minded people who want a matter in their own area progressed, you could get quite a different take on conflict of interest. Can you elaborate on your concerns about this particular part of the bill?

Mr Hallam: I think you have done a far better job than I did, Mr Stevens. Clearly, it can be gamed. That is the concern. This is a matter that has been before the parliament previously, on a number of occasions. This was the law in 2007. In 2011 the then deputy premier and minister for local government at the time, Paul Lucas, amended the law to the way it is now. I have not seen a case put before me or seen any reference to any particular council where that has been an issue. The reason it was rejected in 2011 by the Labor government of the day was that it was being gamed. It is pure and simple, as you say, Mr Stevens.

Mr STEVENS: Further to the matters that you discussed before, in terms of compulsory preferential voting you indicated that it would create quite a deal of uncertainty if it was introduced at this particular time. In the previous state election it almost doubled the informal vote—

Mr Hallam: Correct.

Mr STEVENS:—by moving to a new system of voting, which was not recommended for Belcarra. How confident are you that it will lead to an increase in the number of informal votes that we saw at the previous local government elections and how will that decrease democracy in Queensland?

Mr Hallam: Like my colleague next to me, I have been involved in local government elections as a returning officer for 30 years. Mark has 40 years to his name. We can guarantee that will be the case based on having counted many votes. I should add that there is another thing that has doubled, which is the cost of the election.

Mr STEVENS: Correct.

Mr Hallam: It has gone from $13 million in 2016 to $27 million. It has doubled, but there are individual councils that are writing to us saying that their costs have trebled. There is a concern about the vote, but there is an extra $14 million cost that the community will wear because we have moved to change the system this time around.

CHAIR: That was costs that have already increased at the last election?

Mr Hallam: No. In 2016 the cost was $13 million. The advised cost, confirmed by the ECQ, was $27 million. They have written to every council in Queensland.

CHAIR: To count preferences?

Mr Hallam: To run this election.

CHAIR: To count preferences. I want to make clear that the cost increase is to do with the counting of preferences—

Mr Hallam: It is an element. That is a question that you can put to the ECQ. In our discussions, it is an element.

CHAIR: I am sorry; I thought we might have been conflating those two things and it is important that they are not.

Mr PURDIE: Mr Hallam, in your opening address you mentioned a recent conference or a meeting you had with, I think you said, all councils or all mayors.

Mr Hallam: That is right.

Mr PURDIE: At that meeting, compulsory preferential voting came up as a topic and they voted overwhelmingly against it. Were any councils or mayors supportive of it?

Mr Hallam: The way we work is that we have a weighted vote. Every council has a minimum of two votes and the likes of Brisbane City Council has 14 votes. Half the room has two votes—one per delegate—and the rest have four, six, eight, 10, 12 or 14. The vote as registered was 98 per cent against. There was not a single mayor in the room who spoke against it.

Further to the material that I have tabled, we had an earlier report, which was made public, by Colmar Brunton on these questions. That was quite a separate survey. Eighty per cent of Queenslanders were opposed to CPV. That is in the public domain. Seventy per cent of Queenslanders see the system working fine and they do not believe there should be any change. That survey was of 1,000 people. We always use the big samples because they are more statistically valid and we survey the whole of Queensland. As I said, 80 per cent of Queenslanders said they were opposed to CPV. At our conference in April, just over two months ago, 98 per cent of the voters opposed compulsory preferential voting.

Mr PURDIE: Did the two per cent who supported it get to talk about why—

Mr Hallam: Yes. Anyone who wanted to could. I think there was a councillor from Redlands, from memory, who might have spoken on it. I think there might have been two councillors. The way our system works is that every council has two delegates. It is up to them to choose their delegates. They are free to vote and talk on any matter as they see fit.

CHAIR: I did notice that in the sample of rural and remote n=50, which is not a huge sample and I take that on board. You talked about informality. Let us say we maintain two different types of voting between local, state and federal. Say in six months time we have a state election immediately after local elections, at which people are told to 'just vote 1' by some candidates. Will that lead to greater informality at state elections?

Mr Hallam: I am not really able to comment. For all those years from when Peter Beattie introduced it—was it in 2001?

Mr STEVENS: Yes.

Mr Hallam: I would have to have a look at how different it was between the different jurisdictions. As I said, between federal and state I really could not comment. I do not know those numbers.

CHAIR: Say someone votes for a candidate who comes third in the contest. They may not realise that the contest as to who gets elected is between the other two candidates and may have a preference. Did any of your research focus on those people and whether they would have wanted to express an opinion about the two candidates but perhaps did not realise that that was the central contest?

Mr Hallam: No. I cannot say that is the case. In forming our view we formally corresponded with Professor William Bowe, Mr Ben Raue and Mr Antony Green. We had advice that we sent to all councils, particularly from Professor Bowe, who explained the systems. We cut videos, without putting any view ourselves. That was circulated to every council in Queensland. We looked at all the literature. We did a major literature review. We looked at every system of local government in Australia. We were comprehensive in our approach. There are arguments either way.

I simply say this: the appointed chair of EARC, Tom Sherman, recommended that it should be for the voters to determine where they allocate preferences. The fundamental franchise is with the voter and not the government to dictate whether you allocate a preference. The view was that if you wanted to allocate a preference you would; if you did not you would not. Otherwise, you are forced to vote for someone you do not want. That was the language that Mr Sherman used. As I say, the Soorley report was pretty clear. He thought it should not be introduced before 2024.

CHAIR: In terms of this, we are ensuring that everyone puts a preference on the contest between the last two candidates standing. Is it really so undemocratic that people actually express a view on the two candidates who gather the most votes?

Mr Hallam: I can only go again to Mr Sherman's view of it when he was chairman of EARC.

CHAIR: I am asking for your view, Mr Hallam. Do you think it is undemocratic that, when there are two candidates left standing, everyone expresses their view on who would be better to be their councillor or their mayor?

Mr Hallam: I do not think it is a question of being democratic or undemocratic. I think the better system—the better view—is that optional preferential is the fairest from a point of view that is the enfranchisement of the voter, so the voter themselves in their private moment in the polling place makes that decision, not this parliament.

CHAIR: I will put it to you in a different way. If we are in a division that has two small towns in it and there is one candidate from one small town and they know him or her in that town and then five or six nominate from the other town and the five or six gather more votes but split that town's view, is it more democratic and fairer that their preferences are encouraged to exhaust, often by people who do not know that their vote will not actually count through to the final contest?

Mr Hallam: I think about the Toowoomba council and their system—

CHAIR: Which is an undivided council.

Mr Hallam: Undivided. The councils work brilliantly. It is where I come from originally. The great concern was that in a city of 150,000 or 160,000—whatever greater Toowoomba is—the rural people would be swamped, and quite the reverse has happened. The theory was that after two elections post amalgamation it would revert to type. That has not happened, so there is currently a representative of Cambooya, Crows Nest, Millmerran and Pittsworth. Indeed, there is a fair, equitable balance. I think the voters are actually smart and they make smart decisions.

CHAIR: That might be an argument for undivided councils with first-past-the-post multiple votes.

Mr Hallam: It is an important point and I might say this: I think you would be aware that the great majority of councils are undivided. Three-quarters of the councils are undivided.

CHAIR: You are right: three-quarters are unaffected by these changes whatsoever, but it did not really answer the question about whether voters should have a choice between the final two candidates standing in a ballot and whether they—

Mr Hallam: They do. They have a choice whether they—

CHAIR: Do all of them realise that the person they count for will not be one of the two standing last in the ballot? That is one of the questions that I think is very difficult to answer, through research or otherwise.

Mr Hallam: I concede that point but, as I said, ultimately you have a fundamental view that the enfranchisement is with the voter and that they make the decisions, not the parliament.

CHAIR: I agree.

Ms LEAHY: Mr Hallam, I want to go back to the costs from ECQ. You said they had increased from $13 million last council election to a projected $27 million in 2020.

Mr Hallam: Yes.

Ms LEAHY: That is double the cost.

Mr Hallam: Yes.

Ms LEAHY: The ECQ would have been well aware of the government's proposal for introduction of CPV for the mayoral elections, so it appears that that additional funding that is coming from ratepayers' funds—because it is not the ECQ and the state government that pays—

CHAIR: This is getting to be a speech again, member for Warrego. Do you have a question?

Ms LEAHY: If you let me get to it, Mr Chairman.

CHAIR: I have put this to you before, member for Warrego, that as a guest you are here to put questions to actually hear the answers, not to give speeches and tack on a question at the end.

Ms LEAHY: Mr Chairman, if you allow me my question.

CHAIR: I would like you to put a question.

Ms LEAHY: In relation to that increase of the $14 million, that will be money that will come from ratepayers' funds, not from the ECQ?

Mr Hallam: Correct.

Ms LEAHY: There is no recommendation in Belcarra, so that is basically money that is coming from ratepayers to please the state government's will?

Mr Hallam: Correct.

Ms LEAHY: Thank you.

CHAIR: At the moment for mayoral elections the ECQ now counts all the preferences that are expressed through their counting process?

Mr Hallam: No.

CHAIR: Sorry?

Mr Hallam: For mayoral elections, did you say?

CHAIR: That is right.

Mr Hallam: Yes; correct.

CHAIR: For ward counts, they count all the preferences that are expressed—

Mr Hallam: Where they are divided, yes.

CHAIR: Can you make any estimation of how much of those costs would be to do with counting a very small percentage of extra preferences—

Mr Hallam: I cannot. That is a question I really suggest you put to Mr Vidgen, Mr Chairman.

CHAIR: I agree. I just want to put for the committee that the assertions made have no basis in fact and I do not want to see speeches from members of the committee or questions that have no basis in fact and we cannot assert.

Mr Hallam: In our discussions with the ECQ they have said it is a factor. They have admitted to us it is a factor.

CHAIR: How much of a factor?

Mr Hallam: You have asked me five times and I have given you the answer: I do not know.

Mr O'CONNOR: Mr Hallam, a big part of your submission focused on conflict of interest concerns, particularly in how much time they may take up for a council. Would you be able to expand a bit on that?

Mr Hallam: Thank you. This has been a huge issue for us. I think it has meant that councils and their decision-making processes have slowed demonstrably in the last year. We had major concerns about the definitions of gifts. We had major concerns about the definitions of amounts of money people could receive and indeed where these conflicts arose and when they might arise. It is a matter of record that we wrote to the Premier late last year and as a consequence of that there was a conference with the Premier, myself, my president, the Minister for Local Government and the Independent Assessor, Ms Kathleen Florian. We had a subsequent discussion with Dr Nikola Stepanov. It had become unworkable.

I give great credit to Pat Vidgen in giving very clear definitions about what was a reasonable gift, and that helped a lot. I give great credit to Kathleen Florian, who I think is doing a really good job under difficult circumstances and probably needs to be a bit better resourced given the number of complaints she has dealt with. She has dismissed a third straight up. Most of the others do not pass muster and only a very few have been investigated. There have been some improvements, but I can sit here and say that at least two or three times a week I will get a phone call from councils in a council meeting wanting clarity. That has not ever occurred before, and some of these are the largest local governments in the country. I am not talking about Brisbane, but you can imagine these are very large local governments.

There is a great deal of concern and confusion, and it goes to my earlier point. If someone is going to lose office off the basis of an honest mistake—and that does not apply to you folks—that is incomprehensible. We have to have a simpler system. We call it as it is and we think that the move towards what we have now is a better system, but definitely there are major problems and a number of people have gone to those today. They have to be resolved. I am fearful—and I thought long and hard about bringing a letter from a Western Queensland mayor telling me why he would not run again, but I did not do it in deference to his situation—that there will be people who do not run. There will be a lot of people who do not run because this has just got so onerous and so difficult.

As we have expressed to the government in very recent times, there are people who do not want to be in local government and do not feel like they can walk down the street with heads held high because of where this is going. There has to be a balance. We are all for openness and transparency. We have supported all of these reforms for a decade but, as others have said, the sins of a few—and they are very few, and we are talking 579 elected members—are going to create a system that is not capable of producing outcomes. At the end of the day, whatever you do, the system has to be able to deliver for local people. It has to be able to do all of the basic things that people expect of it. If we are in terminal discussions about who has a conflict and why it is not, it is not going to get there. There has to be a balance in all of this.

Mr O'CONNOR: And this bill does not address that?

Mr Hallam: No. I have said that very clearly. As I said, I give credit where it is due and I think there are some good things in here, but there are some major problems. As I said, from the point of view of jurisprudence and explaining just how onerous this is from a criminal perspective, the Law Society submission stands on its own.

Ms RICHARDS: We had the Belcarra report. Had the CCC not taken to an investigation of the scope that it did, I do not think we would have unravelled some of the significant issues and the reasons for that misplaced trust. In terms of those conflicts of interest—

CHAIR: A question please.

Ms RICHARDS: The question is: why would we not be applying stricter conflict of interest propositions here today given on evidence what we have seen in the Belcarra report and the recent findings that we have seen across councils here in Queensland?

Mr Hallam: Why would the state parliament not play by the same rules?

Ms RICHARDS: But that does not answer my question, Mr Hallam.

Mr Hallam: It does.

Ms RICHARDS: My question to you was: why would we not, given the findings of the Belcarra report and those councils that are here in South-East Queensland today that are experiencing these challenges, be here and now implementing tighter controls to make sure that this does not—

Mr Hallam: Because of the arguments that I and others have put that, despite the fact that we support Belcarra—I have been at lengths to say it—the non-Belcarra matters are the issues here today. They are the problems for us. The voting systems and indeed—

Ms RICHARDS: Conflict of interest was my question.

Mr Hallam: In terms of Belcarra, I have read the report many times. None of this would have fixed up what happened in Ipswich.

Mr PURDIE: Correct.

Mr Hallam: Not one bit of it; not one bit.

CHAIR: So you do not think in terms of those things that looser conflict of interest rules begin to change the culture of a council or begin to change the relationships people have?

Mr Hallam: It does, and I went to those matters. The parliament has been there. This is the third time they have been visited in 12 years, Mr Power. That is the difficulty. We are round and round the mulberry bush. We had the 2007 Desley Boyle laws. We had the 2011 Paul Lucas laws and now we have the 2019 Stirling Hinchliffe laws—all the Labor Party, all around the same sorts of issues. If people want to really focus on what Belcarra said, then I am more than happy to have that discussion because I am very familiar with the report.

Mr O'CONNOR: As a short follow-up question from before, I want to know some of those stories that you have heard from your members, without maybe some of the specifics, about it being a deterrent to them running again or putting their hand up for local government. Do you have a few stories?

Mr Hallam: People who have been 20-year servants of local government—and I do not want to say too much more; otherwise I will identify the people—have simply said that it is not worth the price they pay anymore in terms of the level of mistrust and the lack of support from the state government, I will be honest—brutally honest—in that the view that they are all guilty means they will not run. I suspect—and I think I am pretty well qualified to say this—that between 25 per cent and 30 per cent of all of the candidates will not run again.

CHAIR: With respect, it seems—

Mr Hallam: I am happy to have a casket ticket with anyone outside on that one.

CHAIR: It is contradictory that long-serving councillors feel that all of their communities are looking at them like they are guilty with the research that you have tabled as well. What is the contradiction there?

Mr Hallam: No. The contradiction is what is said by the minister, what is said by the parliament and what is said by the media.

Mr O'CONNOR: And the framework, I guess.

CHAIR: So they feel guilty through the media and—

Mr Hallam: When people get up and say that there is a perception that all councils are on the nose—that was said—it reflects on them, so I do not think they are incongruous at all. They are not antithetical in my mind.

CHAIR: It is interesting that they feel that.

Mr Hallam: What is happening is that the people who run the system are reflecting poorly on them consistently and continuously.

CHAIR: But there are considerable concerns that we should have this about councils. You say a few bad apples, but is it more significant than that?

Mr Hallam: We are at a point in time—and this is just a snapshot—where we are talking about what have been 20 years worth of reforms and opening up transparency and accountability and all those things, and I am a practical person. As I say, if I thought these laws would have prevented an Ipswich, I would be here screaming from the rooftops how good they were. They would not have. They would not have prevented what happened in Ipswich—full stop—so why come up with a prescription for a disease that does not exist?

If we are talking about people being fundamentally dishonest—and that is a matter for the courts to decide—then no matter what laws you pass—and that has been proven in other jurisdictions and other levels of government—it is not going to stop people doing the wrong thing. I think we have to be careful. We just do not come up with an answer that is unworkable if people do not want to run, if good people are deterred from running and if the system is bogged down in process. We are for improvements and we are for change, but it is about where that needle sits. Clearly, if it goes too far one way we will be back here in three years time and this government or another government will be changing the law again.

Mr STEVENS: Mr Chair, a lot of this has been predicated on Belcarra and the Ipswich City Council. In the 2016 election was Ipswich City Council a politically elected council?

Mr Hallam: Certainly it is a matter of record that the majority of the councillors were members of the Labor Party.

Mr STEVENS: Thank you.

Ms LEAHY: Mr Hallam, there has been consultation with councils in relation to the change to compulsory preferential voting. What consultation are you aware of that the government has taken with the broader community, the people of Queensland?

Mr Hallam: None.

Ms LEAHY: Thank you.

Mr Hallam: I would contrast that with two weeks ago I spent a day with my CEO colleagues from interstate. They have been through legislative reform processes that have lasted 18 months with all sorts of touring and discussions, so we are in a very different place. I accept that the circumstances in Queensland are different. I do not walk away from the fact that we have some issues but, as I said, think very hard about what medicine you prescribe for what illness there might be and whether we are not going to end up with a bigger problem.

Ms LEAHY: Thank you.

CHAIR: As there are no further questions, I thank Mr Hallam and Mr Leyland for their participation. I thank you very much for your assistance to the committee today.

HANDLEY, Ms Elizabeth, President, Brisbane Residents United Inc.

SMITH, Mr Greg, Committee Member, Queensland Local Government Reform Alliance Inc.

CHAIR: Good afternoon. Ms Handley, would you like to make a short opening statement and then I will extend the same opportunity to you, Mr Smith, before we proceed to questions from the committee.

Ms Handley: I represent Brisbane Residents United, which is Brisbane's peak body for community and resident action groups. I have been involved in local community groups for over 20 years and we welcome the opportunity to make a presentation to the Economics and Governance Committee on this bill.

Local and state governments are the level of government that most people relate to in their everyday lives. Society's decreasing level of trust in the media and in other established institutions has led to a situation where transparency and accountability at all levels of government is paramount. This is especially so in a state that has such a concentration of media ownership, yet our governments have created a situation where those levels of government are perceived as corruptible. With the first round of Belcarra legislation and now with the second proposed round, the state government has made some progress towards alleviating that perception. Mr Hallam's report seems to support the legislative changes that have already been made.

We strongly support many of the proposals in this bill. We also strongly support the following. We support intervention powers where complaints against the mayor and councillors from all councils can be investigated. We support council minutes. Some councils do not seem to understand that a transparent, accessible and accountable government means that they and their decisions are answerable to the people who elect them and the ratepayers who pay for local government. We congratulate the Brisbane City Council for the changes they have made in that their council meetings are now videoed and available for the public to view.

In relation to councillor access to information, councillors are elected to represent their wards. How can they do that if the dominant factions in a council will not allow them to do so? We commend that change. In relation to mayoral powers, we strongly support the restriction of the powers of mayors. We also support the conflict of interest proposals. However, the first dot point says—

Councillors with conflicts of interests will be prohibited from dealing with the matter unless council resolves that it is in the public interests for them to do so.

This appears to us to be contradictory. In a council made up of councillors where there is a bloc or clique operating, it is obvious that the clique will decide that their colleague with the conflict of interest should deal with the matter because it will be in the public interest. We could not find a clear definition of 'public interest' anywhere, and we would like that to be clarified within the legislation.

In relation to prohibited campaigning techniques, we would also like a clear outline of what happens if it becomes clear after the election that somebody is obviously part of a group but that was not clearly outlined to people when they were actually voting in the council election. We welcome the government's response to the Operation Belcarra report and eagerly anticipate further legislation to deal with the outstanding recommendations. We need anti-corruption measures that really work.

We recommend this legislation be expanded around the following five points. Political donations should be banned for all corporate and trust donations. We have supported the banning of political donations with developers and we thought that was an excellent start. We feel the definition of 'developer' still needs to be expanded to include, for example, refuse companies, retirement villages and aged-care facilities. Particular attention should be made to donations via second- and third-tier associate entities.

We also support the proposed cap on campaign expenditure. We feel that political donations at all levels of government should be replaced by publicly funded election materials for each candidate but, since that does not look like it is going to get up, we very strongly support the proposed cap on campaign expenditure by all candidates. We think this should happen in both local and state government elections. If nothing else, the recent federal election has proved the wisdom of expenditure caps. We do not want to see our democracy so appallingly affected again.

We also would like to see provision made for a betterment tax payable to the government where land zoning benefits a property developer. This reduces the existing incentive to increase density to benefit particular developers. We would also like to see the addressing of the revolving door for staff between industry and government. This leads to insider relationships that are established and used for public sector benefit without due regard for the public interest.

Legislation is only as good as its meaningful punishment, compliance procedures and the funding provided to ensure compliance. The Australia Institute report, *The cost of corruption*, concluded—

Corruption increases costs and reduces economic growth. Worsening perceptions of corruption in Australia since 2012 have potentially reduced GDP by $72.3 billion …

It quoted a study by University of Queensland and University of New South Wales economists that—

80% of the richest 200 Australians made their fortunes in mining, property and other sectors where political favours … can be extremely profitable.

The jobs and growth mantra is used by industry and local councils to excuse decreased meaningful community consultation, transparency and accountability. We know that self-regulation does not work. We need to be legislating for the worst because the community needs to know that they are protected. Your political legacy should be a healthy democracy that is immune to corruption. We call on the Queensland government to give serious considerations to our concerns, to ensure that Queensland is moving towards the best governance system—one that truly inspires confidence and certainty from all stakeholders and empowers our community to meaningfully participate in all levels of government.

CHAIR: Thank you. Ms Handley, with respect, and this might be for future committees, we have a job to consider the legislation in front of us. I know that you might want to take the opportunity to do things that are not part of the legislation, but it is not something that we are going to add to the report. Just keep that in mind, and to you as well, Mr Smith.

Mr Smith: Thank you for the opportunity. I am very mindful of what you have just said. I am here representing the QLGRA. I am on their executive but, unfortunately, they have just had a weekend conference in Townsville and most of them are either still there or on their way down so I am here in that capacity. I am also the president of OSCAR, which is the Sunshine Coast peak resident organisation. So far as the QLGRA's submission is concerned, and taking your point that we should only be talking ideally today about—

CHAIR: There is some latitude.

Mr Smith: Yes, and we understand there will be future opportunities to look at some of those other things. Just very quickly, in relation to the dot points, we support the penalties that have been indicated. When I say 'we', it is the QLGRA I am talking on behalf of. There must be penalties that are proportionate and material to any breach of legislation. We support real-time declaration of funding. We support registers and declarations which need to be publicly available. We assume that will be the case but it is not absolutely clear from my reading of either the explanatory notes or the legislation. We do support reforms that limit the power of mayors.

The QLGRA did not address the issue of voting methodology beyond the suggestion or recommendation that mayors in fact be appointed from the council and councillors are not subject to separate election. That is as much as I would like to say so we can have the greatest opportunity for questions.

Mr STEVENS: I have a question to the Local Government Reform Alliance. You suggested limiting donation figures to $200 rather than the proposed $500 in the bill. I suppose when you look at it, $200 is the weekly shopping bill for a large family. Can you explain to the committee how you arrived at $200 as opposed to $500?

Mr Smith: I suppose to some extent it is an ambit claim to have that figure as low as possible.

Mr STEVENS: Why not $100?

Mr Smith: We also take consolation from the fact that there can be donations that, cumulatively, once they reach the $500, are reportable, as I understand it.

Mr STEVENS: Over $500, yes.

Mr Smith: Once they go over the $500.

Mr STEVENS: It is cumulative.

Mr Smith: Yes. $500 is a reasonable figure.

Ms LEAHY: Thank you for coming to the committee today. The bill talks about changing the voting system for mayors in local government from optional preferential to compulsory preferential. What are your views on that change?

Ms Handley: I would think that because the compulsory preferential voting system is the same system that is used at federal and state level people are very used to it. They only vote once every four years, so why not just standardise the systems at all three levels of government? This is

particularly so when you are doing the same election within the same year. To actually change your system of voting from one system to another system in the same year seems to me quite wasteful. People are already confused enough about some of the choices they are making in the political system without adding to that confusion.

Ms LEAHY: Greg, do you have a view?

Mr Smith: The QLGRA did not express a view on this. If you are happy for me to share OSCAR's view or my personal view, I can do that, but it may not be appropriate.

CHAIR: I am happy either way, as long as you are not purporting to represent a view of an organisation that does not hold that view. It is up to you if you wish to express it.

Mr Smith: It is certainly the view of OSCAR that the voting system should be consistent across all jurisdictions. We believe compulsory preferential voting does give people the opportunity to fully express their views. We have not seen any evidence of the fact that this would favour one of the major parties against the other. I represent organisations in councils that are not politically aligned, not partisan. I can see nothing that is going to change that and OSCAR itself is passionately of the view that we do not want political parties in our councils.

In relation to the point about costs to the ECQ, I cannot comment on that except that they also make the point that consistency between local and state would lead to ultimately less costs in training. It would also allow them, with the systems they are developing, to have the same system to manage elections so I would have thought in the long term the cost could well be less.

Ms LEAHY: We heard earlier this morning that costs would double.

CHAIR: With respect, member for Warrego, that is not what we heard whatsoever. We actually heard the witness say that all of them had to be counted, whether they were exhausted or not, and the counting costs were exactly the same. We did not hear that put forward as evidence this morning. If you have a question, put a question rather than an assertion that we certainly did not hear this morning. Do you have a question?

Ms LEAHY: I have concluded my questions, Mr Chair.

Mr BROWN: Thank you both for coming in and supplying your submissions. Mr Smith, I note in your submission reference to candidates declaring their political party not being able to run as an independent. In the Redlands we had a situation where an independent councillor was elected as an independent councillor and two years later they are running as an LNP member candidate for a state seat. They lost that. They have gone back to council and now, in the last couple of weeks, have removed their membership off their register. Are you fine with them still running as an independent in the next council?

Mr Smith: Absolutely. We would rather not see people running as endorsed candidates, but we have no problem with someone who is a member of a political party running in council, presumably as a non-endorsed independent. The fact that they are or were a member of a political party is not a problem for us.

Mr BROWN: You are saying that someone who keeps on their registry their political party background cannot run as an independent?

Mr Smith: No, I do not think I am saying that either. The two councils we deal with are the Sunshine Coast Regional Council and the Noosa council. In the case of the Sunshine Coast council, the only current councillor who shows in his register that he is a member of a political party acts in a most independent way, in my view, in how he actually performs as a councillor.

Mr BROWN: You are saying in your submission that he has to run under a political party.

Mr Smith: No.

Mr BROWN: In your submission you say that candidates cannot declare themselves as independent if they are a member of a political party.

Mr Smith: Sorry, I owe you an apology. I have conflated the OSCAR submission with the QLGRA submission.

Mr STEVENS: Two hats.

Mr Smith: That is the problem. I misinterpreted what you were actually referring to, I guess.

CHAIR: With that clarity, do you want to put the question again? Reference the point in the question.

Mr BROWN: I refer to the Local Government Reform Alliance submission under the 'independent candidate' heading. Does this proposal mean that you will have political party candidates giving up their political party for six months or so before elections, just to claim independence?

Mr Smith: I do not know that that was what was behind that recommendation. Because that is not actually part of the considerations for the current legislation I did not focus on that. I would have to have further discussions with my colleagues on that.

CHAIR: I would not mark it as irrelevant because there are the issues of declaration and obviously party affiliation is part of that declaration. There being no further questions, I thank you very much for both your submissions, multiple in one case, and your participation here today.

FLORIAN, Ms Kathleen, Independent Assessor, Office of the Independent Assessor

CHAIR: I invite you to make a short opening statement, after which committee members may have some questions for you.

Ms Florian: Thank you for the opportunity to give evidence in relation to the committee's consideration of the bill. You will have noted that my submission focused on those parts of the bill that are relevant to the operation of the Office of the Independent Assessor, in particular conflicts of interest and influence and new elements of the bill that will involve a widening of the jurisdiction of the OIA. I note that my colleague the Electoral Commissioner, Mr Pat Vidgen, is giving evidence after me and is well placed to address the electoral aspects of the bill. I open up for questions at this point.

Mr STEVENS: Are you satisfied that your office will have sufficient resources to accommodate a potentially expanded workload with this new legislation, including the bill's provision for the Independent Assessor to investigate particular conduct of local government employees and to also have jurisdiction in relation to the Brisbane City Council? What extra funding do you believe will be needed if it does take more resources?

Ms Florian: I can say that I do not consider that the OIA currently has sufficient resources in order to undertake that work.

Mr STEVENS: You do or you do not?

Ms Florian: They do not, but this matter is currently under consideration by government and will be part of any announcement in relation to budget.

Mr STEVENS: Do you have an idea what the extra resources would cost as a result of this legislation?

Ms Florian: I have made a submission about what extra resources would be required.

Mr STEVENS: Can we be privy to that amount on those extra resources?

Ms Florian: I have submitted that a further eight FTEs would be required in order to meet the current work volumes and to address any additional work coming in.

Mr STEVENS: That would be at a costing of—

Ms Florian: I do not have that costing with me.

Mr STEVENS: Somewhere around $1.2 million, I would think?

Ms Florian: Yes.

Mr STEVENS: The bill would give you jurisdiction to investigate and prosecute complaints in relation to councillors of the Brisbane City Council. Are you able to indicate whether you have received complaints that you were not able to act on because of the current legislation?

Ms Florian: We have made it very clear on our website that Brisbane City Council is not within the jurisdiction of the OIA. We have received a couple of inquiries in relation to Brisbane City Council but have turned those inquiries away for that reason.

CHAIR: My understanding is that the Office of the Independent Assessor has had quite a number of complaints over the last five months.

Ms Florian: Yes.

CHAIR: Some of them serious, others less serious. Can you give us some background on those?

Ms Florian: We commenced on 3 December with the remit to deal transparently, effectively and efficiently with councillor conduct complaints. As you would be aware, the local government department dealt with those complaints preceding this and in the four years preceding the department received 78, 133, 142 and 162 complaints respectively. In the first three weeks of the OIA's operation it received over 200 complaints, and as at today the OIA has received 746 complaints in six months. Fifty-two per cent of these complaints, or 388, have come from members of the public; 21 per cent, or 157, have been referred to the OIA from the CCC; 24 per cent, or 177, have been received from local governments, local government councillors and local government employees; and three per cent have been OIA initiated.

The OIA has assessed that more than 70 of these complaints have raised a reasonable suspicion of corrupt conduct and have referred those matters to the CCC, 294 have been assessed as misconduct and have been dealt with by the OIA, and 185 have been assessed as inappropriate

conduct. All of these complaints received by the OIA included 200 that related to conflicts of interest alone. Conflicts of interest are the single most complained about issue. The OIA has determined to dismiss or take no further action on 349 complaints at the time of assessment, and a further 65 matters have been dismissed after investigation, bringing the total dismissals to 414.

To date, the OIA has undertaken 77 per cent of assessments within 21 working days. The OIA is currently undertaking 200 active investigations into councillor misconduct Thirty-eight per cent of these matters relate to conflicts of interest. Due to investigation volumes, about 85 matters are currently under active investigation and over 100 investigations are parked pending allocation to an investigator according to a prioritisation model.

In the last four years it is unclear how many misconduct matters have been resolved by previous iterations of the Councillor Conduct Tribunal. There has been no data on this in the department's annual reports for the last three years, but in 2013-14 the annual report identified that the tribunal heard six serious conduct matters. In the last six months the OIA has progressed 12 investigations completely through the Councillor Conduct Tribunal and decisions have either been published or one is currently imminent, another 10 completed investigations are currently before the tribunal and are at hearing stage and a further 21 matters are with OIA lawyers and undergoing a natural justice process prior to possible referral to the tribunal.

CHAIR: You have certainly been busy. Has the Office of the Independent Assessor begun to change the behaviour of some councillors and councils through its role of being independent and moving quite quickly on these issues? Are you beginning to see change in some of their attitudes and behaviour?

Ms Florian: We are starting to see some change, I think, in relation to people's approaches to conflicts of interest, although that is in the early days. I think culturally probably the establishment of the Office of the Independent Assessor has been quite an adjustment and a shift for councillors. I think the much lower number of complaints that have been received in earlier years, both from members of the public and other councillors, perhaps are indicative of a high level of trust in complaints being dealt with by an independent body. Whilst it is early days, I think a key part of any establishment of an ethical culture is an effective complaints system, and I think we have made some really good solid first steps.

CHAIR: This might be a more difficult question to answer. We heard earlier that one of the submitters felt that none of the changes would make any difference in one of the councils where significant problems had been identified. Over time, do you think that the role of the Office of the Independent Assessor will change those cultures and that councils in the future would perhaps not have those significant problems?

Ms Florian: I do, because I do think it is a matter of culture and, as I said, a key aspect of any strong ethical culture is an effective complaints system and an independent complaints system. I think that poor cultures can arise where over a long period of time small things go unaddressed and over a long period of time build into more significant conduct and activity which occurs in a bubble and is not addressed. The idea of having an effective complaints system is to ensure that those cultures do not establish across-the-board. I would certainly support the assessment that my engagement with many councillors indicates that the majority of councillors out there are doing their best to do the right thing in the public interest, but that does not mean that you do not need to assess councillor complaints conduct very carefully and to take action when that action is required.

CHAIR: I think we all share the view that there is no doubt that the majority of councillors do undertake their responsibilities very carefully. There is also the assertion that we have heard before that the needle had moved too far and that councillors were fearful of their public role. Are you hearing from councillors that they are fearful of these changes and greater scrutiny on their accountability?

Ms Florian: As I said, I think this has been a significant adjustment period and in the next six to 12 months we are likely to see continued discomfort with people as they adjust to what is quite a fundamentally different councillor conduct process. A lot of the key to it is in education, particularly around new candidates coming into local government. If you are used to being the subject of no or a very low level of complaints and then all of a sudden matters are coming in and in appropriate matters you are being asked to account for yourself, then that comes as a shock. We need to ensure that candidates coming into local government and councillors who run again have a really good understanding of the expectations of councillors and what is expected of them in the conduct of their business.

Mr BROWN: In relation to the training aspect, would you see that in the future helping the overall number of complaints coming in? You talk about the number of conflicts. Would you like to play a part in the formation of that training? Are there specific areas you would like that training to focus on?

Ms Florian: I think we are already playing a part in that. One of the issues around conflicts of interest is that the decisions of the previous Councillor Complaints Tribunal were not known to the councillors generally, so they were not getting that feedback loop on what is an appropriate way to deal with conflict of interest and what is in this situation and what is not. There is no doubt that some very complex situations can arise. I have deliberately referred to the Councillor Conduct Tribunal some more borderline matters around conflict of interest and material personal interest in the first instance so that the tribunal can give guidance on where they see those matters falling. Then we are getting out to all the councillors straightaway an assessment of that decision so that they can take that decision and apply it to their own facts and circumstances and start to raise their capability in relation to conflicts of interest.

In addition to that, together with the Integrity Commissioner, I have visited workshops or discussions with representatives of 65 councils either through the regional organisations of councils or individually. A further 12 councils have requested that workshop and we have deferred that pending this legislation. Early and ongoing analysis of our complaints and investigations issues is informing the OIA's priorities around education and guidance. Because of that, we worked with the Integrity Commissioner very early to produce some guidelines, some meeting aids and other documents to assist councillors to identify a material personal interest and conflicts of interest and to be able to deal with those appropriately in meetings. Yes, it is part of the role of the Independent Assessor to provide some guidance on issues such as that, and resources permitting we will continue to do that.

Mr BROWN: I also note the introduction of your social media guidelines for councillors. Would you include that in the training also, or do you think your guidelines on the website are enough?

Ms Florian: The OIA substantive FTE is 10 persons. We have quite a bit to be getting on with in terms of just managing the complaints, investigations and prosecutions. I do not see a broader training role as such, but the opportunity to produce guidance that is distributed more broadly—yes.

Mr O'CONNOR: You talked before about resourcing in terms of your staffing and how you practically need to double it just to keep up with the workload and the projected future workload. Another part of your submission talked about the processes that you have to go through. I am wondering if we could get some comment on that. You mentioned how the delays are coming in because referring something back to a councillor takes six letters.

Ms Florian: That is right. I must say, I do recognise at the outset that those parts of my submission are outside the scope of the bill. They were included because they identified things which I think would assist the complaints management process to be more effective and efficient.

Mr O'CONNOR: That required a legislative change—150AA, was it?

Ms Florian: That is right. That refers to when we refer inappropriate conduct back to local government to deal with. It requires a natural justice process, even when you are referring it back to local government for investigation. A natural justice process would be very appropriate if you had already conducted an investigation and that was the step before a decision is made. However, we are effectively referring things back to be investigated by local government where there will be another natural justice process, so there are opportunities for efficiencies there.

Mr O'CONNOR: I want a brief comment on your relationship with the Integrity Commissioner on a lot of these matters. There is a lot of crossover.

Ms Florian: Yes, there is. One good thing about having limited resources is that it pushes you to work as effectively and as laterally as you can. We have worked with the Integrity Commissioner, the Crime and Corruption Commission, the department, the Local Government Association, the Electoral Commissioner and numerous other stakeholders to really leverage our joint resources to get as much information and assistance out to councillors as we can.

Mr BROWN: Following on from the member for Bonney's question, let's say an inappropriate conduct complaint is coming in. You are basically making a judgement there and then that it is inappropriate conduct and then sending it back to the council for further investigation. Do you know how many times you have made an assessment of inappropriate conduct and council has reversed that assessment?

Ms Florian: Just to make it clear, we refer inappropriate conduct back because we do not actually have power to investigate inappropriate conduct.

Mr BROWN: I understand that.

Ms Florian: In my submission I identified that 18 matters so far have been referred back to local government for investigation. Four of those matters have been referred to the tribunal for investigation—three of those were on my recommendation—and four matters have been found to be unsubstantiated by the local government. Two complainants withdrew their complaints after they were referred back to local government and the remaining eight matters appear to be ongoing.

Mr BROWN: One of the items of feedback I get from my local council is that they would like the Independent Assessor to assess all complaints—inappropriate and misconduct. How much more resources do you think it would take for the Independent Assessor to be able to perform that function?

Ms Florian: We do assess all those complaints. We do not investigate inappropriate conduct. In terms of how many more resources would be required to also investigate inappropriate conduct, that is something that I would need to consider and, if I might, I would take that question on notice.

Mr BROWN: Thank you.

CHAIR: I wonder whether that is within the scope of the bill. Should we keep that question on notice? We will put it on notice.

Ms LEAHY: Ms Florian, I am trying to seek a bit of clarification around section 150TA of the bill in relation to how it expands the role of the Independent Assessor to give them powers to investigate the conduct of local government employees. I am wondering how a local government employee would get any legal representation or be protected in any way and given advice if they were to find themselves in that sort of situation which could result from this provision in the bill.

Ms Florian: Local government employees would already be the subject of investigation. The difficulty at the moment is that that investigation can be carried out in three or four different areas. The risk is that those investigations run across each other and duplicate each other. To that extent they are a poor use of resources or people risk starting to mess up each other's investigations. If the OIA were to also investigate local government employees in the particular circumstances outlined in the bill, then I assume what would occur is that at the end of that investigation the material would be referred back to either the CCC or local government in some way. Then the employee could get advice at that point and before any matter was dealt with and would go through a natural justice process.

Ms LEAHY: If the council did not provide them with any legal assistance, basically they would be on their own to seek their own legal advice?

Ms Florian: I would think the vast majority of councils would have a complaints policy in place already which would address issues like that, because council employees are being investigated all the time for misconduct type issues. This would not be new. What would be new is that in certain circumstances the OIA might do that investigation.

Ms LEAHY: For the council? As a replacement?

Ms Florian: Yes, and then potentially refer it back to council to deal with because we have no capacity to deal with it.

Ms LEAHY: In relation to the councillors who come before the OIA, are they all afforded legal representation by their councils, or are there councillors who come before the OIA who do not have access and have to fund their own legal representation?

Ms Florian: There are no councillors who come before the OIA as such. The OIA can conduct investigations into some councillors. We advise them of those investigations as soon as it is appropriate for us to do that. They can obtain legal advice at that point if they wish. If the OIA requires a councillor to come in on a notice to be interviewed, they can bring legal advisers to that interview. If a matter is referred, then they have the opportunity, either themselves or through their legal representative, to make full submissions on why that matter should not be referred to the tribunal. If a matter goes to the tribunal they can apply to the tribunal to be legally represented before the tribunal. There are a number of points where a councillor may seek legal advice and obtain it during that process.

Ms LEAHY: That legal advice often is not paid for by the council; it is paid for by the individual councillor?

Ms Florian: That would depend on the investigation policy that is in place or the position that each council takes. I also understand that there may be some capacity through the LGAQ to access a fund for councillors in certain circumstances. Mr Hallam might be better placed to comment on that.

CHAIR: Just to clarify, this bill does not make changes to those council policies in regard to the representation of staff members or councillors?

Ms Florian: No.

Mr STEVENS: In relation to the training that is included in this bill, we have been advised there are about 550 council members, which would assume around 2,000 candidates coming into an election. I draw the analogy with state government, which has about 500 or 600 candidates and ends up with 93 members and then they go into a good, solid, three-day training session. In your opinion, would you get a better outcome if you waited until after the outcome of the local government election to hold the training session so you could utilise the resources involved for that training? Would you get a better result in training councillors rather than a blanket training of all candidates?

Ms Florian: If I understand your question, you are asking whether you would get a better outcome with just training—

Mr STEVENS: Training the successful candidates rather than all, say, 2,000 candidates. I am just plucking an average of four candidates right across-the-board. State government does the same thing: it trains up the successful candidates.

Ms Florian: I think there is an argument for that but, as I said previously, I think it is very important that candidates running for a local government election really understand what it is they are putting their toe in the water for, because the understandings, particularly around things like conflicts of interest and how their existing interests—business or otherwise—may impact on their ability to be effective councillors, are important considerations to have up-front and before you commit yourself to that process. That is the rider that I would put on that.

Ms RICHARDS: In its submission the Redland City Council expressed concerns about the office's referral of complaints back to the council and for you to undertake the investigation. In relation to penalties, the council has argued that complaints against the council should be fully dealt with by the OIA to ensure independence, transparency and integrity. Other than the resources that might be required, could you comment on the OIA undertaking that?

Ms Florian: I think ultimately that is a policy issue for the government. It would require additional resources. It would be a different level of commitment. In other jurisdictions and in other disciplines that lower level misconduct is dealt with in-house. It is dealt with in-house by the Queensland Police Service. It is dealt with in-house by the public sector. There is an argument that, in doing that, it builds the capability and prevention of, in this case, local governments, to be able to deal with that matter. I think there are arguments that go both ways but, ultimately, I think it is a policy matter for the government.

Ms RICHARDS: Could there be benefit perhaps across local governments if it looked at how there might be a consistent framework for councils to refer to in terms of penalty? If they are finding it difficult for them to make that assessment and process, is there a guideline or a framework that might then assist to be consistent across the state?

Ms Florian: One of the things I raised in my submission was that, in relation to inappropriate conduct, one way to ensure consistency of approach is to determine whether there should be some oversight mechanism. In the same way that the CCC sends low-level matters back to the QPS and the public sector, it also has the capacity to oversight those matters and to intervene if a local government, for example, is getting it wrong repeatedly. That may be a better use of resources rather than taking it all on.

CHAIR: There being no further questions, thank you very much, Ms Florian, for your participation today. There was one question taken on notice. We will follow up with you on the detail of that question. We would like to see the response to that by 5 pm on Monday, 3 June 2019. Thank you for appearing before the committee today.

Ms Florian: Thank you.

Proceedings suspended from 3.17 pm to 3.44 pm.

LEWIS, Mr Wade, Assistant Electoral Commissioner, Electoral Commission of Queensland

MUNDY, Ms Melanie, Acting Director, Compliance Division, Electoral Commission of Queensland

VIDGEN, Mr Pat, Electoral Commissioner of Queensland, Electoral Commission of Queensland

CHAIR: I invite you to make a short opening statement, after which committee members may have some questions for you.

Mr Vidgen: I would like to thank the committee for the invitation to attend the hearing into the Electoral and Other Legislation Amendment Bill and the Local Government Electoral (Implementing Stage 2 of Belcarra) and Other Legislation Amendment Bill. Wade and Mel have operational responsibility for the delivery of election events and electoral funding and disclosure compliance respectively. They will be able to assist the committee with any more detailed questions that members may have in relation to the particular provisions in the bill in those two areas.

Members of the committee will have reviewed the ECQ submission to the bills, so I do not intend to restate it in detail. However, I will reiterate some of the key points of the submission. Firstly, the ECQ's role is to administer and operationalise the provisions of legislation passed by the parliament. The ECQ has provided advice to the government during the development of the bills about the operational implications of particular measures included in the bills. However, as an independent and impartial statutory authority, we do not intend to comment on policy decisions of the government.

During the development of these bills, the ECQ has been party to regular consultation with the responsible government agencies. This is particularly important, given that the ECQ is currently in the lead-up to a significant year in 2020, with the delivery of local government elections in March and the state general election in October. Therefore, it is critical that we have been made aware of the potential changes to legislative requirements to enable us to factor that into our planning and resource allocation.

In relation to the delivery of election events, the bills contain a number of administrative improvements, some of which were identified by the ECQ and submitted through the independent panel's review of the 2016 local government elections. That will allow us to modernise processes and increase efficiencies in conducting elections. This includes measures like authorising the ECQ to publish notices on the website instead of in the *Government Gazette*, including the ECQ to appoint returning officers for state elections rather than the Governor in Council, and changing technical requirements for printing ballot papers.

While the delivery of elections has traditionally been or seen to be the core function of electoral commissions, I also make the point that the ECQ has the increasingly important role of regulator of electoral funding and disclosure laws and of political participants' behaviour during election periods. The ECQ supports the proposed change to statutory functions that acknowledges our important role of promoting compliance with the funding and disclosure provisions of the Electoral Act. This is a responsibility that I, as commissioner, take very seriously and it is a function that the ECQ has developed significantly over recent years with the implementation of the Prohibited Donors Scheme and real-time electronic disclosure.

As outlined in the submission to the committee's inquiry, as regulator, the ECQ's approach is to take a proactive approach in engaging the stakeholders to provide education and awareness-raising material. This provides the foundation for compliance supported by the measured and proportionate use of powers and enforcement tools where necessary. The new penalties proposed through the bills will support the ECQ in performing this regulatory role while also heightening the expectation of the ECQ taking compliance and enforcement action against those who fail to uphold the law.

In closing, I would like to thank the committee for the opportunity to provide input to the inquiry into the bills. The ECQ is commencing an intensive period of activity in preparation for the 2020 elections. A key focus of those preparations has been delivering a program of business, technological and process improvements aimed at ensuring that next year's elections are delivered to a consistently high standard for all electors across Queensland. We are happy to answer any questions from the committee members in relation to the bills.

CHAIR: Thank you very much, Mr Vidgen.

Mr STEVENS: Thank you for your opening statement. Could you give me your best estimates of the additional resourcing requirements that are created by this legislation and the ongoing investigative policing and enforcement of ECQ rules? You have alluded to some of those in your opening remarks. What is the financial cost that you believe will come back on the ECQ and in your submissions to the government for further funding?

CHAIR: You are referring to both bills?

Mr STEVENS: Yes.

Mr Vidgen: Certainly the commission has looked at the proposed bills in a combined fashion, so it is fine for us to respond in that regard. In terms of process, both the Attorney-General and the Minister for Local Government wrote to me some months ago, when the bills were being prepared, about what the ECQ could estimate in terms of resource implications for the ECQ. Based on the information that we had available at the time—and we were working with both departments in regard to the construct of the bills—I provided advice back to ministers in terms of where I saw the resource implications for our organisation, recognising that we are part of the system of implementing the reforms, given that there are other departments, such as the department and the Office of the Independent Assessor and so forth. I provided that advice to the government, and that indication of where additional requirements or resourcing is required for the ECQ is under government consideration.

There were five main areas that I can outline where we believe there is a heightened requirement for the ECQ. Two of them relate to our main IT systems. We have an election management system that underpins the backbone to us running elections. It has 12 different modules in terms of how an election is supported. Those 12 modules have around 600 to 700 different functionalities. The legislative amendments require 10 of those 12 modules to now be readjusted in terms of the development of the new election management system. Of those 600 or 700 functionalities, I think around 200 or 300 of those may be impacted, depending on how the bills are passed. In short, that means that, with our vendor, the coding and development for the software for that new election management system has to alter. That has had an impact on our contract arrangements with our vendor. I do not want to get into the detail of that cost, given that it is a commercial-in-confidence arrangement that we have with them, but it is a significant impact for us and for the vendor.

The other one is the electronic disclosure system, which is the funding and disclosure system, which Mel can talk a bit more about. Again, that is requiring some more software development of that system so that, if the bills are passed as presented to the parliament, we have a system that is ready in place to respond to the requirements. Again, that has meant a fair bit of software development by that vendor and, again, there are some costs associated with that.

In addition to those two costs, we believe that, to fulfil our obligations, we will be doing some proactive training with councillors, candidates, members and so forth so that they understand the requirements. We hope to do that in partnership with the department of local government, the Integrity Commissioner and so forth.

There is additional software that we think would be very beneficial in terms of assisting us with the compliance audits. We have given an indication to the government of what those software costs could be. Similarly, there are some licensing fees around the IT systems that would also see an uplift. Those five things together are the main areas of cost. We have put a submission in to the government on that.

Mr STEVENS: Without knowing commercial-in-confidence matters—as a committee we certainly would not want to be involved with that, but this legislation comes to the parliament—the committee should be aware of an approximation of an overall cost in implementing this legislation. Could you give me a broad figure on that?

Mr Vidgen: We are part of a system of implementation. We have looked at costs in relation to the ECQ. With the costs that we have provided back to the government, there is a variable. I am not trying to not answer your question, but there is a variation in terms of depending on what the parliament passes that will have an impact on the level of expenditure that is required to implement the system.

Mr STEVENS: We are not looking at anything being passed other than the bills before us.

Mr Vidgen: Yes.

Mr STEVENS: You must have a costing on the bills before us.

Mr Vidgen: I have an approximate cost.

Mr STEVENS: Thank you.

Mr Vidgen: Again, the major cost is in relation to the two IT systems.

Mr STEVENS: I do not want to know those individually, just the approximate cost.

Mr Vidgen: Four of the costs related to the IT area, because one is in relation to the software system and another one relates to licence fees. Can I just say that it is in the millions—

Mr STEVENS: Yes.

Mr Vidgen:—without being precise.

Mr STEVENS: In the millions. Without giving specifics, it is the millions?

Mr Vidgen: Yes, and there is some variation in there depending on what the parliament passes.

Ms RICHARDS: In regard to those costs, presumably they are one-off costs? They are not ongoing costs for the ECQ?

Mr Vidgen: Indeed. The election management system and the electronic disclosure system are our two core, fundamental IT systems. They are in place at the moment. The new election management system is a new system that we are developing at the moment. That will be used next year, subject to training.

Ms RICHARDS: We heard from the LGAQ that this legislation brings ongoing change to election costs. This legislation requires one-off implementation costs to get the base framework right. It is not an ongoing election cycle cost to operate an election?

Mr Vidgen: That is correct. The expenditure on the IT systems is a one-off cost and they will be maintained. I have not heard Mr Hallam's presentation to you. I have written to the LGAQ on a separate matter relating to the costs of local government elections next year. In that I have indicated to Mr Hallam that the costs for those elections—and there will be an increase in cost for next year—are unrelated to the electoral reforms. The work that we have done for the local government elections next year is separate to and independent from the costs for local governments and the two will not come together. That is to say that there are no amendments that are proposed in the bills that will be passed through to local governments.

Ms RICHARDS: Thank you.

Mr BROWN: In regard to having confidence to implement the reforms, especially for the local government elections coming up in March 2020, recently I put in a complaint to the ECQ in regard to a developer owned billboard, which was investigated by the ECQ. I put in a request to the ECQ on 17 May for the documentation around the invoice and proof of payment for that billboard and I have not received a response. Will you provide that to the committee?

CHAIR: You want something to be produced to the committee?

Mr BROWN: Will you provide the documentation in regard to the invoice paid and also any evidence in regard to the actual payment of that billboard?

Mr Vidgen: I am familiar with the matter that you have raised in regard to the federal election and the issue of the billboard. I understand that there has been some communication between the ECQ and you. I am aware of this additional request you have made. I understand—and Mel might be able to provide a bit more comment on that—that we are looking at the request you made to provide a response—

Mr STEVENS: With respect, this is a matter that concerns the member privately. I cannot see the relevance.

Mr BROWN: I want to have confidence that the ECQ can enforce the Belcarra reforms. This directly relates to the first round of Belcarra reforms. The commissioner touched on local government elections being important.

CHAIR: Is this relevant to the source of donations?

Mr BROWN: Yes.

Mr Vidgen: I can confirm that a response will be coming to you shortly in that matter.

Mr BROWN: I made a phone call to your acting manager, Matthew Thurlby. He indicated that payment occurred after the complaint. Can you confirm that?

Mr Vidgen: I am not aware of that detail. I am not sure that Mel—

Ms Mundy: I cannot confirm that for you at the moment. I will need to have a look at that. I would prefer not to give you any incorrect information.

Mr BROWN: What sort of signal are we sending to prohibited donors and candidates? Is it that if you get caught you can just make the payment afterwards? That is assuming that your employee is correct in this regard.

CHAIR: You are trying to take this as an example in regard—

Mr BROWN: Yes. I want to have confidence in the ECQ to enforce the reforms.

Mr Vidgen: I can say that, with the Prohibited Donors Scheme, which came into play last year, our assessment of the implementation of that legislation has been one of success. We base that on the fact of early engagement with all political parties and also relevant industry groups involved in the PDS. We held a number of workshops. We have a number of fact sheets. We are dealing with requests that come up. Outside the issue that you have raised—and we will respond to you in that regard—we believe that the PDS, from an implementation point of view, is successful.

Mr BROWN: Sorry, Chair, but I have a number of questions following that. With regard to making the assessment that it was not a gift, what research did you undertake and will you provide that documentation or comparisons you made with regard to—

CHAIR: We have the understanding that you will get a reply from the Electoral Commission on these matters, so although the question has been put—

Mr BROWN: These are extra questions, yes.

CHAIR: We have put the question, but those matters are something that will be dealt with in the correspondence following up. They are the same questions you will put in the letter?

Mr BROWN: I ask this because Mr Laming on 16 November in the *Redland City Bulletin* said approximately $50 per day—

Mr STEVENS: I raise a point of order. We are going into matters that are outside the remit of this committee investigation and the presentation by the presenters here from the ECQ. If there are matters that the member wishes to raise, he should do so with appropriate authorities, not here today under this—

Mr BROWN: I have and after 10 business days I have not received correspondence in reply.

CHAIR: Member for Capalaba. With respect, Deputy Chair, although this is very specific, there are issues in the legislation about the origin of donations and the responsibility of people to know the origin of donations. It is not irrelevant to the legislation, but what we might do is move to—

Mr STEVENS: These are individual matters that the member has raised and people have to—

CHAIR: With respect, it might be that on occasions members raise individual matters as an illustration of the general. What we might do is move to another questioner and if the member for Capalaba wants to return to the issue—and make sure that it is framed in that scope—we can return to him. There is nothing wrong, per se, with raising a specific illustration to illustrate the general legislation. I call the member for Bonney. We might return to this later, if that is all right.

Mr O'CONNOR: Do you have any concerns about compulsory preferential voting? What impact have you seen when it has been introduced before, particularly with informal voting? Do you foresee an increase in that?

Mr Vidgen: There are two things. Firstly, our role is to obviously implement the legislation as passed by the parliament and we will do that to the best of our ability. With regard to some observations, I might ask the Assistant Electoral Commissioner to perhaps provide some comment.

Mr Lewis: Thanks, Commissioner. The introduction of compulsory preferential voting in the last state election occurred as you know and from our point of view was underpinned by quite an extensive communication campaign. One of the issues that we are aware of is that people are concerned about electors being confused about the voting system they are using if they are moving from one system to another. We certainly addressed that quite comprehensively in the last state election for the same reasons that we are talking about here. We did see a rise in informality at the last state election, from some 2.11 per cent to 4.34 per cent.

One of the things that I would say about linking the rise in informality to full preferential voting is that informality is a very complex subject and it is not always possible to draw a causal connection between the voting system itself and the nature of informal voting. For example, in the recent South Australian election they experienced a rise in informal voting. They did some research after their

election which showed that the majority of the informal votes in South Australia were intentionally informal. That is not something that we have much capacity to control, obviously, if someone is casting an intentionally informal vote, but we are also aware that other factors, like literacy and numeracy and awareness of an electoral event, all play into people's ability to cast a formal vote. We certainly do a lot to make sure that people understand the voting system that they are using and what a formal vote versus an informal vote is, for example.

In the last state election we produced a lot of collateral, if you like, about what a formal vote looks like and what an informal vote looks like so that that was very clear in a visual way as well. The other thing I would just mention is that in Queensland we compare quite favourably to other jurisdictions in terms of the informality rates that we experience. For example, in the 2016 federal election it was 4.7 per cent in the House. That is fairly comparable to us and other jurisdictions. For example, in the recent Victorian lower house election, which also uses full preferential voting, it was 5.83 per cent, so it is fairly comparable for us.

Mr O'CONNOR: It was 2.2 per cent without compulsory preferential.

Mr Lewis: That is correct in the state election.

Mr O'CONNOR: That is a great figure.

Mr STEVENS: Just as a follow-up question on those particular figures, could you give me the cost—and you might have to take this on notice—in terms of the advertising you did in the awareness campaign for the state election? Could you also advise what your advertising campaign is intended for the local government elections should this legislation be passed?

Mr Lewis: Yes. The first one we will have to take on notice and certainly we can get that information for you. The second one is in development as we speak, so at the moment we are developing a communication and engagement strategy for the local government elections for next year and obviously that will be affected by a lot of the reforms that are under consideration.

Mr STEVENS: So you do not have a figure that you can provide on notice at this stage of your budgeted awareness campaign for the local government election?

Mr Lewis: Not at this stage.

Ms RICHARDS: I would suggest that that was a one-off cost in terms of the advertising campaign on preferential voting for the last state election. It would therefore be similar in terms of a one-off cost. Can you talk a little bit about the benefits for the ECQ having consistent compulsory preferential across state and local?

Mr Vidgen: I will answer part. My intention for both the local government elections and the state government election next year is really to perhaps contemporise some of the practices which the commission has followed in the past. There are some good examples from the recent New South Wales, Victorian and federal government elections with regard to how they engaged with the community both in terms of making them aware of electoral events and in terms of the rules that apply for those electoral events. The use of social media clearly now is becoming greater, so our need to engage with that platform has grown.

There are a lot of lessons learned from the recent elections, which means that our approach will differ a little bit from what has happened previously, but you are right in saying that there is always an advertising and marketing budget for elections. My desire is to perhaps move a little bit away from our traditional thinking in just having stock standard TV advertisements as the predominant factor to using a whole range of methods to do that. In fact, some of the feedback we got after the last state election was that, in a sense, ECQ does not need to direct a lot of its resourcing to television advertising in terms of promoting an event because that is pretty well done through both the mainstream media and the political party advertising. Our advertising needs to be more about letting people know how to cast a vote in terms of a lawful vote and so forth, so that is what we will be aiming to do. In terms of the consistency approach, I am not sure but Wade might want to say something.

Mr Lewis: Just to address the consistency issue, there are a couple of benefits to us of having consistency of voting systems, and that plays out, for example, in the systems that the commissioner was talking about earlier such as our election management system and our electronic disclosure system. With systems like that, obviously you have to hard-wire, if you like, different voting systems into them in terms of the business processes that you follow and code into the system, so it makes it easier to code those systems if they are all similar voting systems.

Probably more importantly, I would highlight the importance of training for polling officials. As you know, we employ a large number of polling officials in a short period of time. They receive training from ECQ. There is a lot on their shoulders and they cannot make a mistake so, for us, ensuring that training is professional and that it is consistent across events is really important, and a consistency of voting system does help in terms of the training of electoral officials who do not have much time to understand what they are doing. The more consistency there is, the easier it is for us from a training point of view as well.

CHAIR: Presumably, if we continue on the same cycles and if we were not to make a change to full preferential voting, then you would have to go through a relatively expensive campaign of re-educating people for the coming state election. I know it is not your budget, but if there was a federal election closely aligned or even running in Queensland, full stop, they would have to consider putting more budget into re-educating people about the rules, so in that way there would be considerable savings about the education campaign when you have a consistent and standard message, especially with that six-month gap.

Mr STEVENS: The question is?

CHAIR: Would there be considerable savings in the longer term in not having to run recurrent four-year campaigns of re-educating people each time?

Mr Vidgen: One of the things we will do for the two electoral events next year in terms of our advertising and marketing strategy is look at that in terms of one strategy broken into the two different events. The fact that there is consistency in terms of the voting method means that that will add to the messaging that we think we will need to partake with voters.

Mr BROWN: I will again go back to the research around whether it was a gift or not with regard to this matter. I do note Andrew Laming's comments in the *Redland City Bulletin* on 16 May saying that the billboard cost $50 a day and then on 13 May he said in the *Courier-Mail* that it cost $2,000 for a lunar month. That is quite a different amount of sums there.

Mr STEVENS: I raise a point of order.

CHAIR: There is a point of order, member for Capalaba.

Mr STEVENS: Can the member provide where in the legislation this matter relates to that we are discussing?

Mr BROWN: I have answered that three times.

CHAIR: Member for Capalaba. Page 2 of the explanatory notes says that the achievements of the policy document are placing an obligation on donors to notify the recipient of the true source of the gift as in recommendation 6 of the Belcarra report. While this might be drawing down on a very specific example, I do not know that as the chair I am to say that the example is not in line with drawing on the obligation of donors to notify a recipient of the true source of the gift.

Mr STEVENS: As far as I can hear the member, he is actually looking for an answer about that particular matter.

Mr BROWN: Yes, I am.

Mr STEVENS: This is not the place for individual matters to be addressed.

Mr BROWN: And this is a frivolous point of order.

CHAIR: Order, members! My ruling is that he is seeking an answer as an illustration of the obligation on donors to notify the recipient of the true source of the gift as responding to recommendation 6 of the Belcarra report. We might find that too specific, or in your case you find it frivolous, but I do not know that as the chair I am to rule the member out of order on that basis. Member for Capalaba.

Mr BROWN: I note that the billboard just around the corner from the billboard that was in question has a cost of $124 per day. What documentation did you find or did you have with regard to making that assessment that it was not a gift?

Mr Vidgen: In terms of responding to the member, I think the most appropriate response I can give today is that when the matter came before the commission to look at I was satisfied with the level of detail that we had, the investigation undertaken and the response provided. I understand now there are further queries from the member with regard to that and there may be additional information which is now available. I cannot provide the specifics as we sit here now, but what I can assure you is that the commission will look at that detail. In relation to the matters you have raised today, we are happy to offline speak with you a bit more about that and ensure that you get a fulsome response.

CHAIR: All right. We might give—

Mr BROWN: Sorry, but just following on from that—

CHAIR: No. Member for Capalaba, we might just—

Mr BROWN: I just want to say that, in following on with that, if I can provide the extra information you will review the matter in question?

Mr Vidgen: Yes.

CHAIR: Member for Capalaba, we have explored that recommendation 6 issue quite extensively, so we might move on to other issues.

Mr PURDIE: I have one quick question which might be a little bit off topic just in relation to Belcarra generally. We spoke about prohibited donors before and when we debated that legislation in the parliament we were told that the Electoral Commission would eventually come up with a definition for prohibited donor. I know there was a High Court case recently, and I must admit that I have not read the judgement. Has the Electoral Commission come up with a clear definition of what a prohibited donor is in relation to a property developer in relation to regular planning applications? Can you explain that to me?

Ms Mundy: Sure. I am happy to answer that for you, if you like. The legislation itself provides for a number of comprehensive definitions. We understand at the time, though, that 'regular' was not defined and still is not defined, although, as Pat mentioned earlier, we undertook a number of information sessions and stakeholder engagement to try to assist people in understanding what 'regular' might be, depending on the certain circumstances. We have also provided fact sheets on our websites. We provide independent advice to people about the situation and the business activities that they are involved in, but, no, the ECQ's position is that we would not provide a definition of 'regular' at this stage and rely upon the definitions as they are in the legislation.

Mr STEVENS: I will follow up on that in terms of getting some definitive position, because it is very important and can result in people going to jail if they have it wrong. In other words, everybody who gets a donation has the capacity to ring the ECQ and find out whether it is 'regular' or not? You will be giving them a definitive position when they come to you, whether or not they are developers?

Ms Mundy: Sure. It is not as easy as just ringing and getting a definitive answer. The legislation also allows for a determination process. That is the first step we take—encouraging donors and recipients to lodge an application for a determination so that the commissioner can establish whether somebody is not a prohibited donor. That gives a level of assurance to people about donations they can receive and give. The first step is obviously to have a chat with someone and understand their circumstances and perhaps provide some education around what the definition means and how it might apply to them. The ECQ not too long ago put up a self-assessment tool for individuals to use which basically steps out the legislation and the types of questions they ask. Our experience has been that people who are working in this industry know what their business is, so the questions are ones they can answer. It is about debunking a lot of myths about the definition and how it applies to individuals and circumstances. We are always happy to take phone calls.

CHAIR: This is related to the previous Belcarra legislation but interrelated with this bill, so I am allowing the questions.

Mr PURDIE: We heard from the Independent Assessor before. When they give a ruling—correct me if I am wrong—they might redact the personal information but they publish that ruling and it becomes a precedent. In terms of rulings that you are giving individually, is it possible to redact some information so that they are not personal and then publish those rulings so that people can see that you have made a determination on someone who might be in similar circumstances?

Ms Mundy: Absolutely. Again, it is built into the legislation that we have to keep a register of determinations where somebody is determined not to be a prohibited donor. We will not actually make a determination that someone is, but we will make a determination that they are not. Those details and the details of the company or persons involved will be available on our register.

Mr PURDIE: What about the grounds, so that someone could look at those examples and say, 'I'm similar to that, so subsequently I might be in the same boat'?

Ms Mundy: The grounds will not be necessary because we have determined that they are not. The grounds will become important for those people whom we cannot make a determination for.

CHAIR: I think the member for Ninderry is suggesting that they would act as case studies.

Mr PURDIE: Like a precedent.

Ms Mundy: Yes.

CHAIR: You have provided some examples on the fact sheets.

Ms Mundy: That is right, yes. As far as possible, our information sessions—

CHAIR: I think you gave them to us last time.

Ms Mundy: We have toured a number of councils, and we were still up until last week giving information sessions on prohibited donations and providing examples in that context as well.

CHAIR: Those are only where people give you the facts as they understand them and you can only act on those facts. It is not when something is omitted, either—

Ms Mundy: That is right.

Mr PURDIE: Deliberate or accidental.

CHAIR:—deliberately or accidentally. Those rulings are only relevant to that point.

Ms Mundy: That is correct.

Mr O'CONNOR: To finalise the point about compulsory preferential voting that was raised earlier, in the state election in 2009 the informal vote was 1.94 per cent; in 2012 it went up to 2.15 per cent; then in 2015 it went back to 2.11 per cent. With the introduction of compulsory preferential voting at the state level, it went up to 4.34 per cent in 2017, as you were saying. Do you believe that it does not impact on informality? You were saying that there were a lot of other issues at play. That seems pretty clear-cut to me.

Mr Lewis: I think what I was trying to say was that it is not a direct relationship between the introduction of the new voting system and the rise in informality. One of the reasons that I say that is that a rise in informality is actually a consistent trend across Australia and across a lot of other jurisdictions as well, including when the same voting system is in play. Even in Queensland, for example, across the last two local government elections there was a rise in informality though the voting systems did not change. Some of that is about elector engagement in the political process. Some of it might be about the movement of people and literacy and numeracy issues. We are cautious about drawing that very direct link between the voting system and a rise in informality.

Mr O'CONNOR: To that degree, though? That is a doubling—that is a big increase.

Mr Lewis: It is a significant increase. I do not think we would disagree.

CHAIR: When someone marks a '1' for a single candidate or marks '1' and '2' for two candidates but then chooses not to fill in the preferences—usually in that case it means not filling in preferences for the major party—we do not actually know their intent, whether their intent is to mark a protest but also to indicate a party but for it not to be counted. We do not know what the intent of their vote is there, do we?

Mr Lewis: That is true. We do an analysis of ballot papers after the elections to, as far as we can, determine whether it was an intentional informal vote or whether it might have just been a mistake. Sometimes that is reasonably clear. Sometimes it is not entirely clear whether someone just ran out of puff while they were filling out the ballot paper or whether they intended to stop at a certain point. A lot of the other jurisdictions do the same kind of analysis as well.

Mr STEVENS: You mentioned that there had been an increase in the local government informality vote which some would see as a slight on democracy. Can you give me the figures on that increase in local government informality votes as a percentage?

Mr Lewis: Yes. In 2012 it was 3.5 per cent; then in 2016 it was 4.34 per cent—so a slight rise.

Mr O'CONNOR: So you have no concerns about the impact of compulsory preferential voting on the exclusion of votes? At the state election there were 123,000 informal votes.

Mr Lewis: We always try to encourage people to vote formally. That is part of our reason for being. A very clear message from us to people in our communication strategy is not just to vote formally but how to vote formally. We do try to understand why people do not as well. Some of that we can control, some of it we can address and some of it we cannot. We are very keen to address the rise of informality as far as we are able to.

CHAIR: Just to phrase it in a different way, under optional preferential voting, where a vote does not indicate a preference for one of the two major candidates, that vote exhausts and, although it is counted for a minor party, it is not counted to determine the person who wins the election. What percentage of votes were exhausted in that way previously during Queensland elections?

Mr Lewis: Chair, I might have to take that on notice and get back to you about that.

CHAIR: It was considerably higher than two per cent of votes that were exhausted and did not make a choice between the two major parties.

Mr Lewis: I might have to take that one on notice, sorry, Chair.

CHAIR: There being no further questions, thank you very much for appearing before us. I note that we have two questions on notice. Your responses will be required by 5 pm on Monday, 3 June 2019. Thank you for appearing before us today.

DUNN, Mr Matt, General Manager, Policy, Public Affairs and Governance, Queensland Law Society

GNECH, Mr Calvin, Chair, Occupational Discipline Law Committee, Queensland Law Society

KIM, Ms Deborah, Policy Solicitor, Queensland Law Society

CHAIR: I note that the QLS has made separate submissions on the two bills. I might leave it up to you as to in which order you wish to address the amendments. I invite you to make a short opening statement, after which committee members will have some questions for you. Would you prefer to make a statement on one of the bills and then have questions on that one or address both bills? What approach would you prefer to take?

Mr Dunn: We will probably make an opening statement on the Belcarra stage 2 bill and leave the electoral bill to the end. There is probably not a lot we can help the committee with on the electoral bill.

CHAIR: We will deal with Belcarra stage 2 bill first, and you are indicating that you will need less time for the electoral bill.

Ms Kim: Thank you, Chair and committee, for inviting the Queensland Law Society to appear at the public hearing on the Local Government (Implementing Stage 2 of Belcarra) and Other Legislation Amendment Bill and the Electoral and Other Legislation Amendment Bill. My name is Deborah Kim and I am a policy solicitor at Queensland Law Society. The society is an independent, apolitical representative body and the peak professional body for the state's legal practitioners, over 13,000 of whom we represent, educate and support. In carrying out its central ethos of advocating for good law and good lawyers, the society proffers views which are representative of its member practitioners. I would like to thank the QLS Occupational Discipline Law Committee for their help in the preparation of our submissions.

At the outset the society would like to express its appreciation for the recent introduction of the 'track changes' function on the Queensland legislation website which provides an indicative reprint of the amended legislation. The feature has greatly assisted QLS in reviewing the bills and the relevant legislation in light of the significant number of proposed amendments.

The society supports the intention of the bill to improve diversity, transparency, integrity and consistency in the local government system. It is critical that Queenslanders have confidence in their councillors and local governments, and the society acknowledges the importance of having a robust legislative framework to prevent systemic corrupt activity. However, the amendments proposed in the bill pose burdensome compliance obligations upon councillors that may expose them to the risk of prosecution for unintentional administrative oversights brought on by a lack of funding, training and support.

Appearing with me today is Calvin Gnech, Chair of the QLS Occupational Discipline Law Committee, and Matt Dunn, General Manager of Policy, Public Affairs and Governance at QLS. Matt will outline our key issues in relation to the bill.

Mr Dunn: By way of general comment, the society expresses its concern that there are legislative amendments in this bill which are contributing to a gradual erosion of fundamental legislative principles in the Queensland legislative statute book. The introduction of these little provisions and little changes reduce transparency and integrity of the legislation to a certain degree. They might appear minor in the current context, but over time they are part of a wider trend which creates a concerning acceptance of what could be described as model provisions on some issues, particularly the ousting of judicial review, and that will have an impact on the rights and liberties of Queenslanders.

There are two particular points we would like to highlight today for you in the opening statement. One is dealing with judicial review and the other one is dealing with the public interest aspects of decision-making under the bill. Firstly, to judicial review, the QLS is a longstanding advocate for appropriate access to the courts and for the protection of a person's rights. We remain concerned about any limitation on the availability of statutory review under the Judicial Review Act and restrictions on the ability of the Supreme Court to review administrative decision-making processes of the government.

Section 244 of the LGA, as amended, provides that certain relevant decisions under the Local Government Act are not subject to appeal or judicial review under the JR Act unless there is jurisdictional error. This is the change that is being brought in. Jurisdictional error is where a

government officer makes a decision that exceeds the limits of their legislative authority to make. An example might be a situation where an officer has a power to grant a licence to build fences and then goes and grants a licence to build houses. That is obviously outside of their power to do so and that is jurisdictional error. What that does not speak to is any deficiency in the decision-making process, any corruption that might be in that process, lack of transparency or denial of natural justice. Those things are not included in jurisdictional error.

The proposed amendment to section 244 seeks to deny under a number of decision headings under the act any judicial review of decisions other than those matters of jurisdictional error. This is quite a good thing because that means that that section of the legislation now becomes at least constitutionally valid after the High Court's decision in Kirk, which said that the legislation cannot oust the jurisdiction of the Supreme Court with respect to jurisdictional error at least. We would say that really it should go further than that. If there is decision-making, it should be able to be reviewed by the courts so that the integrity of the process and the transparency of the process should be able to be made certain.

The JR Act itself was introduced into Queensland in direct response to the Fitzgerald inquiry. It provides an accessible form of review that is consistent with fundamental legislative principles. A dilution of these rights should be avoided. The society considers that there should be no restriction on the availability of judicial review for decisions under the Local Government Act, the COBA or the LGEA. The point that we would like to make there is that it seems a little ironic that in a bill that is about creating transparency and due process for local government decision-making—which is a good thing and we support—the minister's decision-making on matters of local government should be not subject to judicial review and not have the same level of transparency and accountability measures extended to the minister's decision-making. Really, it should be the same for both.

In terms of public interest, last year, with the passing of the first stage of the Belcarra legislation, the Local Government Act was amended to give the minister a significant power to remove a councillor or dissolve a local government if the minister reasonably believed it was in the public interest that that should happen. This bill proposes to make further amendments to the LGA to apply a public interest test to other powers of intervention during the provisions relating to remedial action initiated by the chief executive of the department, such as appointing a financial controller for the local government.

Of particular concern is the proposed amendment in section 121 to allow the minister to suspend or revoke a decision of the local government if the minister believes it is otherwise in the public interest to do so. If section 121 is amended as proposed, the minister will only be required to 'believe' that the decision of the local government is unsound. The present standard required is that the minister should 'reasonably believe' that the decision is unsound. The exercise of this power can have quite serious consequences, such as the overturning of a planning scheme or possibly significant damage to a council's reputation. In the light of such risks, the QLS considers that either the standard for the decision is that it should be reasonably believed or alternately we should define 'belief' to say that 'the minister on the evidence before them and on the balance of probability believes'.

We would also like to clarify one aspect of our written submission on this point. The written submission refers to sections 122 and 123 of the LGA being amended to change the standard of proof from 'reasonably believes' to 'believes'. The society notes that this change is not proposed for the two sections. However, we also note that the standard of change is proposed for the power of the chief executive to recommend remedial action, appoint an adviser and appoint a financial controller.

There are a number of sections, as I said, that deal with judicial review and that are extended or removed by section 244. We would like to suggest again that those are perhaps better not included in a transparency bill.

CHAIR: Mr Dunn, it is up to you which way you put forward the Law Society's arguments, giving time for questions as well. I will leave it up to you as to how you want to proceed.

Mr Dunn: I draw a close there.

CHAIR: You have dealt with judicial review. Is there anything else that you wish to speak about or are we ready for questions?

Mr STEVENS: He said he has finished.

CHAIR: Mr Gnech?

Mr Gnech: I am happy to receive questions. I would like to deal with the reversal of the onus of proof, if those questions do not come up at some point, and also the practical effects this has on councillors. I am happy to receive questions.

Mr STEVENS: Mr Dunn, thank you very much for your dissertation. Mr Potts, your president, could not be here today. He always does a great job. This is very important legislation that will have enormous ramifications for many people legally. How much consultation was done with the Queensland Law Society prior to this legislation coming before you? If there was none, why not?

Ms Kim: As far as I am aware, the Queensland Law Society has not been consulted on the drafting of the bill prior to its introduction.

Mr STEVENS: The question is, why not?

Mr Dunn: I do not think we can express a view about why the department chose to consult us or not consult us on the text of the bill.

CHAIR: We always get the Law Society to speak to us and issues of judicial review almost always come up. Has there ever been a circumstance where the Law Society has, for good governance or practicality, supported a restriction on judicial review? That question might encompass too much legislation, but do you remember an instance where, for the practicality of running government or for procedures or processes, the government has restricted the ability of parties to endlessly and constantly judicially review a process that would have slowed down good governance? Has the Law Society ever supported any restriction on judicial review in any bill put before them?

Mr Dunn: Certainly the Law Society has always supported the appropriate review of decision-making. We have always said that an avenue to have a review at least under the JR Act is a useful thing. It does not allow review of merits. It does not allow frivolous or vexatious causes. It actually is a review of process. In that regard it adds materially to government decision-making, if nothing else than in the consideration of whether a decision might be subject to judicial review and then making it in a sound kind of way. It is a matter of proportionality in the circumstances, Mr Chair. The Law Society has always said that judicial review is an appropriate mechanism, and that is one of our stand-fast principles that we have always had.

CHAIR: 'Proportionality' is a good way to phrase it. Recently, the House had to make a law to dismiss a council because the process of judicial review would have meant long delays that would have affected good governance by a particular council. Is there any practical place where restricting judicial review for the benefit of Queenslanders—for example, by enabling a council to function effectively—would be seen as of value by the Law Society?

Mr Dunn: Certainly, Mr Chair, having people being able to bring valid arguments to the courts to review decision-making is a very important right of Queenslanders. Judicial review processes do not have to take long periods. They can work on expedited time frames when there are serious matters that need to be dealt with quickly. It is a matter of 'how long is a piece of string?' in terms of the process and the time frame to run them through. There is also the opportunity for the parliament to set statutory time frames for review processes. It is really a matter of fitting the circumstances and also perhaps fitting the importance of the decision that is being made and the impact of that decision on individuals in the community.

CHAIR: In that circumstance, all six of us supported specific legislation to expedite a matter that could have been delayed considerably through that type of review. I may be supposing why everyone voted that way, but that judicial review would have delayed the decision—

Mr STEVENS: The question is?

CHAIR:—and prevented the council from being operable. Is that not a worthwhile reason to say that the minister should have those powers and it not be subject to judicial review, if Queenslanders would be hurt otherwise?

Mr Dunn: I am sorry, Mr Chair; I am not quite sure. I would have thought that transparency was a useful measure.

CHAIR: Even when it delays to the point of making the law irrelevant or useless?

Mr Dunn: Mr Chair, you pointed to a bill that the House passed and it is the province of the House to do so if the House feels that that is appropriate in the circumstances. The Law Society would probably say that judicial review is a worthwhile cause. Certainly in this situation there is a decision-making process for the minister to go through. It just lacks one last little part at the end, which is the ability of someone aggrieved with that process to have the opportunity to seek some review of that decision. If the House wishes to expedite matters because of the urgency that you talk of, the House can pass the legislation it wishes to do so. Parliament is supreme.

CHAIR: It is not a reasonable process that, every time a minister is thwarted, the House steps in to pass fresh legislation to expeditiously deal with a matter.

Mr STEVENS: Your question is?

CHAIR: It is not a reasonable process.

Mr STEVENS: Can you ask the question?

CHAIR: Is it a reasonable process?

Mr Dunn: I think a reasonable process is having transparency, and a reasonable process is relying on independent review of administrative decision-making, as was set down in the JR Act after the Fitzgerald inquiry.

Ms RICHARDS: In your submission you talk about maximum penalty and the penalty units. I take it that you think they are not severe enough. Can you expand on that?

Mr Dunn: In terms of the offences, I believe we dealt with this issue in section 2, at page 10, in terms of decision-making and penalty units. The offences that were proposed are very broad in nature and they can catch a great variety of different conduct. The point that we were trying to make was that that conduct may be on the very serious end, where there may be quite significant financial gain, or that conduct may also be on a very insignificant and very inconsequential end. We were trying to assess whether the penalties were appropriate for really serious and egregious conduct as opposed to very minor misconduct. The provisions are drafted in such a broad manner that they catch a really wide and large variety of conduct. Our question was simply: are those penalties appropriate for the most egregious forms of conduct that could fall under those offences or, alternately, is some revision or some refinement of that needed to have an offence that deals with the more serious conduct and an offence that deals with the more basic?

Ms RICHARDS: Given what has been in front of us, setting it at 200 penalty units might not necessarily have been a deterrent?

Mr Dunn: Certainly the deterrent effect is a very difficult thing to quantify in terms of criminal law. It is not a particularly effective mechanism to stop people from doing particular conduct. If there was a particular development, for example, and someone stood to make a very significant financial gain as a result of that, that kind of penalty may be seen as a cost of doing business rather than actually impacting on the decision as to whether or not to do the conduct.

Mr O'CONNOR: What are your thoughts on the reversal of the onus of proof? This is about getting councillors to prove their innocence.

Mr Gnech: Any reversal of the onus is concerning on two fronts. It inadvertently abrogates the self-incrimination penalty privilege. There are proper drafting rules if a fundamental right such as self-incrimination privilege is to be abrogated. That does not occur when there is a reversal of the onus. It requires the councillor to step forward and speak.

Unless there is a transparent drafting of the legislation to abrogate that self-incrimination privilege, that is where our concern comes from. It also, in essence, nuances or rids the ability to raise the defence of mistake of fact—honest and mistaken reasonable belief—because the councillor has to speak in any response to an allegation that supports a charge where there is a reversal of the onus.

Mr O'CONNOR: In your submission you mention that the drafting handbook talks about limits or justifications. It does not hit that, in your opinion?

Mr Gnech: That is right. It does not touch on it at all. When reversal of onus legislation is introduced, it is done so in isolation and away from those drafting rules. Those drafting rules include protections as to what is to happen when abrogation of a fundamental right such as self-incrimination privilege is introduced. It does not occur in this legislation.

CHAIR: With the onus of proof, we are talking about where a gift or loan has been received by a councillor and they should know the source of the gift or the loan. If you are in public office and you receive a gift, would you not reasonably know what they were or return the gift or give the gift back to the council?

Mr Gnech: That is an assumption that all of those facts are known. This is why I raised the nuance of removing the defence of mistake of fact or honest belief, because a councillor could believe honestly that the donation or the gift had been reasonably donated from an appropriate person but for whatever reason it was not. That onus should rest with the Office of the Independent Assessor, the OIA, the regulatory body, rather than the councillor having to step forward and explain each and every one of their decisions or nondecisions, in what is really in effect a nondecision if they do not disclose it.

That therefore leads into the next part of the QLS submission in that the overgovernance reduces the effectiveness of the day-to-day running of a councillor. It is the recommendations in totality from Belcarra to identify and prosecute systemic, serious corrupt conduct. I refer the committee to the website of the Councillor Conduct Tribunal. Between 12 February and 26 April this year they handed down six decisions. Five of those decisions substantiated misconduct against councillors. Of those five substantiated misconduct decisions, the highest sanction imposed against a councillor was a direction to apologise at the next ordinary meeting or a $100 fine. That, in our submission, is clear demonstration as to where the resources are focused, and that is not consistent with the recommendations and the finding out of Belcarra.

CHAIR: We heard earlier from the Office of the Independent Assessor that she valued the change in culture and the greater knowledge about the role of councillors and their propriety. Is that not also important?

Mr Gnech: It is highly important. The purpose of the submission that I make to you is that, when you look at the decisions that have been handed down so far, there is a focus on the very, very lower end of the scale which could be dealt with in a fashion of education and retraining, especially in circumstances where we are dealing with councillors who do not have the training or education in what is now a complicated, regulated regime.

Can I make a point in regard to the factors around conflict of interest. We have in our profession numerous educated lawyers who struggle with the concept of identifying what a conflict of interest is. Without training, proper resources and a responsible approach to the councillors, this legislation has the potential to capture the innocent mistakes rather than the corrupt activity.

Mr STEVENS: Mr Dunn, given your concerns in relation to judicial review, onus of proof and the conflict of interest, is it the Queensland Law Society's opinion that this legislation has some serious flaws to it?

Mr Dunn: As we have pointed out, the objective of the legislation—to bring transparency and accountability to the local government sector—is very much supported. As I said at the beginning, there are a couple of little elements which are a minor chipping away and are a diminution of some of the strength and protections of the fundamental legislative principles. We have identified some of those today. Those things that you identify are those little areas where there are diminutions in the bill from what is otherwise a very well supported initiative to bring transparency.

Mr STEVENS: Back to my question: I understand that you support the initiatives, as we all do, and those types of things, but is this legislation flawed, from the Law Society's point of view?

CHAIR: I think—

Mr STEVENS: Sorry, Mr Chair. It was a specific question and the answer I got was not to the question of whether it is flawed legislation, which is quite clear.

CHAIR: With due respect, member for Mermaid Beach, we are not here to badger witnesses until we get the answer. I do not want to put words into the witness's mouth, but I do not think the answer was inappropriate to what you asked, if he wants to repeat it.

Mr Dunn: There are some provisions in the bill which could be better drafted.

Mr STEVENS: Thank you.

Mr O'CONNOR: It is quite rare to have provisions that reverse the onus of proof. Do you have any other examples of that?

Mr Gnech: Speaking just off the top of my head, there are a couple of criminal provisions that reverse the onus. They are minor offences, from memory, which are found in the Regulatory Offences Act and are simple offences. To my knowledge, there is no reversal of the onus in a regulated scheme for professionals that I am aware of that I can point the committee to today.

Mr STEVENS: Is there anything in the CCC legislation?

Mr Gnech: No. I do not believe there is.

Ms RICHARDS: In terms of talking about the smaller things, it is sometimes the smaller things that you scratch the surface of that lead to the bigger things. Would that be a fair comment to make in terms of your statement around the use of the independent office's time? It is sometimes those little things that are pointed out that can point to systemic larger problems.

Mr Gnech: Member for Redlands, I completely agree with that. My submission about the decisions was in relation to the decisions that have passed that point before the OIA. There are certainly no criticisms in regard to investigating the matters, but once they have been investigated

and they know that they are singular matters known at a lower level, it is our submission that the resources in then referring it to the tribunal for disciplinary action at that lower level is unhelpful without or inclusive of an educated base to reform the mistakes.

Ms RICHARDS: I guess each one of those is individual in its nature, and the culmination of those as a collective could possibly point to broader issues systematically.

Mr Gnech: I agree.

CHAIR: There being no further questions, do you wish to address the other bill that is before us—the Electoral and Other Legislation Amendment Bill?

Mr Dunn: I do not think there is a lot we can add to our written submissions.

CHAIR: Thank you. I thank you for your participation today and we appreciate your attendance. There were no questions taken on notice. I thank Hansard and the secretariat. The committee will now adjourn.

The committee adjourned at 4.51 pm.